



City of High Point

Meeting Agenda

Finance Committee

Municipal Office Building
211 S. Hamilton Street
High Point, NC 27260

Council Member Britt Moore, Chair
Committee Members:
Mayor Pro Tempore Monica Peters
Council Member Michael Holmes
Council Member Tim Andrew

Cyril Jefferson, Mayor (Alternate)

Thursday, May 28, 2026

4:00 PM

Council Chambers

Finance Committee - Council Member Britt W. Moore, Chair

CALL TO ORDER

PRESENTATION OF ITEMS

- 2026-176 **Consideration of a Construction Manager at Risk Contract with Metcon, Inc.- Electric Operations Center**
City Council is requested to consider a Construction Manager at Risk contract with Metcon, Inc. for the Electric Operations Center and authorize the appropriate City Official(s) to execute all necessary documents.
- 2026-120 **Consideration of a Guaranteed Maximum Price Amendment with Construction Manager at Risk Metcon, Inc. for Phase 1 Demolition – Electric Operations Center**
City Council is requested to consider a Construction Manager at Risk contract with Metcon, Inc. in the amount of \$166,751 to perform Demolition Services for the Electric Operations Center and authorize the appropriate City Official(s) to execute all necessary documents.
- 2026-172 **Consideration of a Task Order for Architectural Services with Lindsey Architecture, P.C.**
City Council is requested to consider a task order for architectural services with Lindsey Architecture, P.C. in the amount of \$1,573,660 for 205 Model Farm Road, the future site of the Electric Operations Center, and authorize the appropriate City Official(s) to execute all necessary documents.
- 2026-171 **Consideration of a Contract with Wesco Distribution, Inc.**

City Council is requested to approve a Sourcewell contract with Wesco Distribution, Inc. in the amount of \$582,826.24 for steel transmission pole replacements and authorize the appropriate City Official(s) to execute all necessary documents.

2026-174 **Consideration of an Agreement with Community Housing Solutions**

City Council is requested to consider an agreement with Community Housing Solutions in the amount of \$140,000 for the construction of four affordable homes in the Southside community and authorize the appropriate City Official (s) to execute all necessary documents.

2026-177 **Consideration of a Pressing Need Approval with McGill Environmental Systems of N.C., Inc.**

City Council is requested to consider a pressing need purchase order (PO) increase from \$167,240 to \$559, 672 with McGill Environmental Systems of N.C., Inc., for emergency hauling and disposal of dewatered biosolids from the Eastside Wastewater Treatment Plant, and authorize the appropriate City Official(s) to execute all necessary documents.

2026-180 **Consideration of Tax Collection Orders for the Forsyth County Tax Administration**

City Council is requested to authorize the appropriate City Official(s) to execute the attached orders for the collection of 2026 taxes by the Forsyth County Tax Administration office for areas of High Point located in Forsyth County.

ADJOURNMENT

CITY OF HIGH POINT

AGENDA ITEM



TITLE: Consideration of a Construction Manager at Risk Contract with Metcon, Inc.- Electric Operations Center

FROM:
Tyler Berrier
Electric Utilities Director

MEETING DATE:
May 28, 2026

PUBLIC HEARING:
No

ADVERTISED DATE/BY:
N/A

ATTACHMENTS:
1. AIA Document A233
2. AIA Document A201

PURPOSE: Approval of Metcon, Inc. as the Construction Manager at Risk (CMAR) for the construction of the Electric Operations Center at 205 Model Farm Road.

BACKGROUND: The City began the process of recruiting a CMAR in 2025. A Request for Qualifications (RFQ) process was issued, and nine firms submitted proposals.

City Council approved the programming and preconstruction services proposal with Metcon, Inc. in October 2025, and staff are currently finalizing the site plan, architectural layout, schematic design and budgets for each phase.

Construction of the Electric Operations Center will be accomplished in the following four phases: (1) demolition, (2) earthwork, (3) early procurement, and (4) building and site improvements. This CMAR contract consists of two documents, the attached customized AIA Document A133 (Standard Form of Agreement) and A201 (General Conditions of the Contract for Construction). The A133 and A201 establish the terms governing the relationship between the City as the owner and Metcon, Inc. as the CMAR. The details of the work for each phase, including price and completion date, will be established by a Guaranteed Maximum Price (GMP) Amendment to the CMAR contract for each phase. Each of the four phases' GMP Amendments will be presented to City Council for approval.

BUDGET IMPACT: Funds available in the FY 2025-2026 budget.

RECOMMENDED ACTION REQUESTED: City Council is requested to consider a CMAR contract with Metcon, Inc. for the Electric Operations Center and authorize the appropriate City Official(s) to execute all necessary documents.

AIA® Document A133® – 2019

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

AGREEMENT made as of the « » day of « » in the year « 2026 »
(In words, indicate day, month, and year.)

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

« City of High Point, a North Carolina municipal corporation
211 South Hamilton Street
High Point, NC 27260 »

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

« Metcon, Inc., a North Carolina corporation
763 Comtech Drive
Pembroke, NC 28372 »

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

« Electric Operations Center
205 Model Farm Road
High Point, NC 27265
Project Description: To construct an approximately 30,000-square-foot administration office, 20,000 square feet of construction crew offices, 52,000 square feet of equipment sheds, a laydown area, and a visitor and employee parking area. Site work will include curb and gutter, sidewalks, underground utilities, parking, drive aisles, stormwater control measures, and landscaping. Final design and approximate square footage of each structure to be coordinated with Owner and Architect. »

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

« Lindsey Architecture, P.C., a North Carolina professional corporation
324 South Elm Street
Suite 500
Greensboro, NC 27401 »

The Registered Lien Agent Selected by the Owner:

« TBD »

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

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

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

TABLE OF ARTICLES

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

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1, other documents listed in and incorporated into this Agreement, and Modifications issued after execution of this Agreement.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

« See Owner's Request for Qualifications dated July 10, 2025 and Agreement for Services between the Owner and the Construction Manager dated November 14, 2025 »

§ 1.1.2 The Project's physical characteristics:
(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

« See Owner's Request for Qualifications dated July 10, 2025 »

§ 1.1.3 The Owner's construction budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

« See Owner's Request for Qualifications dated July 10, 2025 »

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

See Guaranteed Maximum Price Amendment

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

« The Construction Phase of the Work will be completed in four phases through four separate Guaranteed Maximum Price Amendments to be executed after the execution of this Agreement. The four phases of construction of the Project will be (1) demolition of the existing building on the Project site, (2) earthwork, (3) early procurement, and (4) building and site improvements. Each phase of the Work shall have its own Substantial Completion Date, and liquidated damages shall be due from the Construction Manager for each delay by the Construction Manager on any of the Substantial Completion Dates.

Any references in this Agreement or the AIA Document A201–2017: to the Guaranteed Maximum Price Amendment shall apply to each of the four Guaranteed Maximum Price Amendments; to the Contract Sum shall apply to each of the four Contract Sums; and so on with each defined term in this Agreement or the AIA Document A201–2017, each such term to be construed as applying to the applicable phase of the Work, unless a contrary intent is clearly indicated or necessary given the context. The Construction Manager agrees to meet all of its obligations under this Agreement and the AIA Document A201–2017 for each phase of the Work, which may require taking certain actions or meeting certain requirements for each phase; for example, the Construction Manager shall furnish payment and performance bonds consistent with North Carolina law and as required by this Agreement and Article 11 of AIA Document A201–2017 for each phase of the Work. For the avoidance of doubt, any obligations of the Construction Manager under this Agreement or the AIA Document A201–2017 that must be met at any time during or continuously throughout the Construction Phase of the Project must be met whenever applicable from the beginning of the first phase through the end of the final phase of the Work.

The Construction Manager shall perform the Work so there are no gaps or omissions in the Project as a whole between or among the scopes of Work for the various phases and Guaranteed Maximum Price Amendments. The Construction Manager shall promptly notify the Owner in writing of any actual or potential gaps or conflicts in scope that the Construction Manager identifies; absent such timely written notice before pricing the affected Work, any gap or overlap between Phases relating to coordination, temporary work, or protection of completed Work shall be deemed included in Construction Manager's obligations and Guaranteed Maximum Price. »

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

« N/A »

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

« See Guaranteed Maximum Price Amendment »

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

« Tyler Berrier, Electric Utilities Director »
211 South Hamilton Street
High Point, NC 27260
tyler.berrier@highpointnc.gov

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

« »

§ 1.1.10 Intentionally deleted.

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

« »

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

« Russ Partin, Senior Vice President
2401 Whitehall Park Dr, Suite 650
Charlotte, NC 28273
rpartin@metconus.com
704.564.8116 »

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

« »

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

« The Construction Manager shall follow all requirements of N.C. Gen. Stat. § 143-128.1 during its subcontractor procurement for performance of the Work. »

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

« »

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten (10) days' prior notice to the other party.

§ 1.4 This Agreement is entered into in accordance with and shall be governed by N.C. Gen. Stat. § 143-128.1 and other sections of Chapter 143, Article 8 of the North Carolina General Statutes relating to construction management at risk contracts.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, including, without limitation, those listed in Article 15, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or

repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

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

§ 2.3 General Conditions

§ 2.3.1 The general conditions of the contract are the AIA Document A201™-2017, General Conditions of the Contract for Construction, as modified, attached hereto. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

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

§ 3.1.2 Project Review

§ 3.1.2.1 The Construction Manager shall serve as an integral part of the Project team and shall meet with the Owner, the Architect, consultants, other design team members and stakeholders to fully understand the design program, the design documents, the Project scope and all other pertinent aspects of the Project.

§ 3.1.2.2 The Construction Manager shall develop written Project procedures, in cooperation with the Owner and the Architect.

§ 3.1.2.3 The Construction Manager shall provide the Owner and the Architect with a written evaluation of the Owner's Project program and the Project budget, each in terms of the other with recommendations on the appropriateness of each.

§ 3.1.2.4 During the Preconstruction Phase, the Construction Manager shall recommend in writing to Owner and the Architect methods, techniques, systems, materials, and value engineering ideas, which will maximize cost savings to keep the Guaranteed Maximum Price for Project within the Project budget. The Construction Manager shall monitor development of design documents prepared by the Architect considering the Project budget, and shall monitor material, building systems, equipment, and labor costs. If in the course of such activities, the Construction Manager determines that material, building systems, equipment, or labor cost changes will significantly impact the then currently anticipated

cost for the Project, the Construction Manager shall promptly inform the Owner and the Architect of such change (and the reasons for the change), and recommend measures to contain cost so that the Project budget is not exceeded.

§ 3.1.2.5 The Construction Manager shall consult with, advise, assist and make recommendations in writing to the Owner and the Architect in the preparation of the design criteria, the building program for the Project and the development of all plans, Drawings and Specifications for the Project throughout each design phase. In performing such services, but without assuming design responsibility, the Construction Manager shall:

- .1 review all design documents and advise and make recommendations with respect to such factors as constructability, construction feasibility, cost impacts and possible economies, availability and utilization of materials, labor, and equipment, time requirements for procurement and construction, and performance standards and maintenance expense upon completion;
- .2 assist the Architect and the other design professionals in the review of all sections of the plans and Specifications to minimize areas of conflict and overlap in the work to be performed by the various trade contractors;
- .3 review the Drawings and Specifications as they are being prepared, in order to advise and assist in the coordination thereof, the preparation of a release sequence thereof, the elimination of ambiguities and conflicts therein, and the avoidance of omissions and conflicts with applicable laws and regulations; and
- .4 verify that the Contract Documents include requirements and assignment of responsibilities for (i) safety precautions and programs and temporary Project facilities for common use of Construction Manager, Subcontractors and sub-subcontractors, and separate contractors and (ii) site coordination and staging and storage areas for common use of the Construction Manager, Subcontractors, and sub-subcontractors.

§ 3.1.2.6 The Construction Manager shall provide the Owner and Architect with a written evaluation of the Owner's Project program, the Project budget, schedule and construction budget requirements, each in terms of the other with recommendations on appropriateness of each.

§ 3.1.3 Consultation

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

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

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing written protocols for the development, use, transmission, reliance, and exchange of digital data, including building information models for the Project.

§ 3.1.4 Project Schedule

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

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into

consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

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

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development, and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager, and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 Review and Coordination of Documents

§ 3.1.7.1 As the Architect progresses with the preparation of the Schematic Design, Design Development, and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.7.2 The Construction Manager shall review all Drawings and Specifications as they are being prepared, recommending alternative solutions whenever design details affect costs, construction feasibility, or schedules. The Construction Manager shall notify the Architect and the Owner in writing upon observing any features in the Drawings or Specifications, which appear to be ambiguous, confusing, conflicting, or erroneous and make recommendations for the Architect's review and Owner's approval.

§ 3.1.7.3 The Construction Manager shall provide a thorough interdisciplinary coordination review, performed by qualified personnel, of the construction drawings and specifications utilizing a structured and industry accepted process. The Construction Manager shall provide the Owner with all review comments and review the final documents to see that all comments have been incorporated.

§ 3.1.7.4 The Construction Manager shall verify that all value engineering and constructability changes approved by the Owner have been incorporated into the final approved plans and included in the Guaranteed Maximum Price. All ambiguous, confusing, and/or erroneous features discovered by the Construction Manager (but not acting in the capacity as a licensed design professional) in the plans or Specifications or that would have been reasonably apparent or identifiable by professional construction managers working on similar projects shall be deemed to be corrected and any associated costs shall be included in the Guaranteed Maximum Price.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

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

§ 3.1.10 Intentionally deleted.

§ 3.1.11 Subcontractors and Suppliers

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

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

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

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

§ 3.1.13 Compliance with Laws

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

§ 3.1.14 Other Preconstruction Services

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

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

« »

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

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

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

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

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

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

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

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

§ 3.3.2.4 Daily Logs

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

§ 3.3.2.5 Cost Control

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

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

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

§ 4.1.2 Intentionally deleted.

§ 4.1.3 Intentionally deleted.

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

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

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

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

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

§ 4.2 Owner's Designated Representative

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

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

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties, and responsibilities as described in the agreement between Owner and Architect, including normal structural, mechanical, and electrical engineering services, other than cost estimating services. The Owner may authorize and cause the Architect to perform additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. Such services shall be provided in accordance with time schedules agreed to by the Owner, Architect, and Construction Manager. Upon request of the Construction Manager, the Owner shall furnish to the Construction Manager a copy of the Owner's Agreement with the Architect, from which compensation provisions may be deleted.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

« See Agreement for Services between the Owner and the Construction Manager dated November 14, 2025 »

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

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

« »

Individual or Position

Rate

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

§ 5.2 Payments

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

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

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

« 6.00 » % « per annum »

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

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

§ 6.1.2 The Construction Manager's Fee:

« See Exhibit H Cost Elements & Fee Assumptions and Clarifications »

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

« Per Section 7.2.3 of A201-2017 »

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

« Per Section 7.2.3 of A201-2017 »

§ 6.1.5 Intentionally deleted.

§ 6.1.6 Liquidated damages, if any:

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

« Time is of the essence with respect all dates or times specified in this Agreement. The Construction Manager acknowledges and agrees that if the Construction Manager fails to timely complete the Work within the Substantial

Completion Date(s) set forth in this Agreement, as such may be amended by Change Order pursuant to this Agreement, the Owner will sustain damages and loss as a result of such delay and failure. The Construction Manager and Owner further agree that the exact amount of such damages would be difficult to calculate. Therefore, the Construction Manager and Owner agree that, in the event the Construction Manager fails to achieve the Substantial Completion Date(s) set forth in this Agreement for any phase, as such may be amended by Change Order pursuant to this Agreement, the Owner shall be entitled to retain or recover from the Construction Manager, as liquidated damages and not as a penalty, the amount of One Thousand Dollars for the first thirty (30) days of delay on the Project (not each phase of the Project), and the amount of Two Thousand Five Hundred Dollars (\$2,500) thereafter, per day for each day any portion of the Work is late, to a maximum of fifty percent (50%) of the Construction Manager's Fee; provided, however, that in the event the Construction Manager fails to achieve the Substantial Completion Date(s) set forth in this Agreement for phases 1, 2, or 3, as such may be amended by Change Order pursuant to this Agreement, no liquidated damages will be due from the Construction Manager, and no days will be counted towards the first thirty (30) days of delay on the Project, if the Construction Manager provides evidence reasonably acceptable to the Owner that the applicable failure did not delay the critical path of the Project. The amount of liquidated damages assessed by the Owner shall be deducted from any sums due the Construction Manager and, in the event that such liquidated damages exceed amounts owed, the Construction Manager or its performance bond surety shall promptly pay Owner, upon demand, the amount of such excess. Liquidated damages shall be the Owner's sole and exclusive remedy for the delayed completion of the Project.

Further, the Construction Manager agrees that, in the event Construction Manager does not carry out the Work at such rates of progress as required to maintain the construction schedule due to the fault of the Construction Manager and/or those for whom the Construction Manager is responsible, the Owner may, at its option and without the Construction Manager receiving any additional compensation therefor, require the Construction Manager to increase the number of qualified supervisory personnel and/or workers at the Project, increase the amount of equipment employed in the performance of the Work, accelerate the Work, and/or take such other actions as may be necessary to recover the construction schedule. »

§ 6.1.7 Other:

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

« Savings below the Guaranteed Maximum Price will inure to the benefit of the Owner and the Construction Manager in the following proportions: seventy percent (70%) to the Owner and thirty percent (30%) to the Construction Manager. Provided, however, that any savings below the Guaranteed Maximum Price for one phase of the Project cannot be used to offset any costs in another phase of the Project, including any costs which would cause the Guaranteed Maximum Price of another phase to be exceeded. »

§ 6.2 Guaranteed Maximum Price

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

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to “cost” and “fee,” and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of this Agreement, unless the Owner has furnished the Construction Manager with prior written

approval of the form and substance of a subcontract, in which case such adjustments shall be calculated in accordance with the terms and conditions of that subcontract.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 6.1.2 of this Agreement.

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

§ 6.4 No change from the Contract Documents shall be undertaken without the prior review by the Architect and the express, written approval of the Owner. When more detailed information is required for performance of the Work or when an interpretation of the Contract Documents is required, the Construction Manager shall submit a written request to the Architect and the Owner, and the Architect, after first conferring with and obtaining the approval of the Owner, shall, promptly and without delay to the Construction Manager, furnish such information or interpretation in the form of an Architect’s Supplemental Instruction or other written form or drawing. In the case of inconsistency between Drawings and Specifications or within either document not clarified by the Architect, the better quality or greater quantity shall be provided at no extra cost to the Owner.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean actual costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner’s prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 “Costs” as defined herein shall be costs paid or incurred by the Construction Manager, less all discounts, rebates, and salvages that shall be taken by the Construction Manager pursuant to Article 8 of this Agreement. Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.1.4 In no event shall the Owner be required to reimburse the Construction Manager for any portion of the Cost of the Work incurred prior to the Commencement Date unless the Construction Manager has received the Owner’s written consent prior to incurring such cost.

§ 7.2 Labor Costs

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

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

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

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

« »

§ 7.2.3 Wages and salaries of the Construction Manager’s supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, but not merit or other types of bonuses, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

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

§ 7.3 Subcontract Costs

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

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

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

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

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

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

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

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

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

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

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

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

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

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

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

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

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

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

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

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

§ 7.7 Other Costs and Emergencies

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

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017, to the extent not (i) caused by the Construction Manager, a Subcontractor of any tier, or anyone for whom either is responsible, or (ii) capable of being prevented through timely notice of an unsafe condition to the Owner.

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

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term “related party” shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

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

§ 7.9 Costs Not To Be Reimbursed

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

- .1 Salaries and other compensation of the Construction Manager’s personnel stationed at the Construction Manager’s principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager’s principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager’s capital expenses, including interest on the Construction Manager’s capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained. The Construction Manager shall not obtain for its own benefit any discounts, rebates, or refunds in connection with the Work prior to providing the Owner with seven (7) days' prior written notice of the potential discount, rebate, or refund and an opportunity to furnish funds necessary to obtain such discount, rebate, or refund on behalf of the Owner in accordance with the requirements of this Section 8.1.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 The Construction Manager shall follow all requirements of N.C. Gen. Stat. § 143-128.1 during its subcontractor procurement for performance of the Work. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents and applicable law.

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

ARTICLE 10 ACCOUNTING RECORDS

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

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

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

§ 11.1.2 By the twenty-fifth (25th) calendar day of each month, the Construction Manager shall present to the Architect an Application for Payment, setting forth the amount sought by the Construction Manager for full completion of portions of the Work during that month and to be completed through the end of that month. Each Application for Payment shall include sufficient information and documentation to allow the Architect to evaluate the Application for Payment.

§ 11.1.3 The Architect shall promptly review each Application for Payment submitted to the Architect by the Construction Manager. The Architect may consult at any time with the Owner regarding an Application for Payment submitted to the Architect by the Construction Manager. The Architect shall have until the tenth (10th) calendar day of the month following the Construction Manager's submission of the applicable Application for Payment to the Architect to notify the Construction Manager in writing about any issues with the Application for Payment. The Architect and the Construction Manager will work diligently to resolve any issues raised by the Architect regarding an Application for Payment submitted by the Construction Manager. When the Architect determines that an Application for Payment is acceptable, the Architect shall submit the acceptable Application for Payment with the Architect's Certificate for Payment to the Owner for payment.

§ 11.1.3.1 Assuming that a timely and acceptable Application for Payment is submitted by the Construction Manager, payment will be made by the Owner by the thirtieth (30th) calendar day of the month following the Construction Manager's submission of the applicable Application for Payment to the Architect (or on March 2 for the month of February). Notwithstanding the forgoing sentence, the Owner may withhold payment to the Construction Manager as permitted by the Contract Documents including, without limitation, pursuant to Section 9.4.3 of AIA Document A201–2017.

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

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

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

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

§ 11.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

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

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

« Five percent (5%) »

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:

When the Work is fifty percent (50%) complete as indicated by the schedule of values included in the monthly applications for payment, no further retainage shall be withheld, if the Construction Manager continues to perform satisfactorily and any nonconforming Work identified in writing prior to that time by the Architect or Owner has been corrected by the Construction Manager and accepted by the Architect or Owner in accordance with N.C. Gen. Stat. § 143-134.1.

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8.

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 11.1.10 Except with the Owner’s prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

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

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

§ 11.2 Final Payment

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

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager’s responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2; and
- .4 all other conditions precedent to final payment as set forth in Section 9.10.2 of the A201–2017 General Conditions have been satisfied.

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

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

§ 11.2.2.2 Within seven (7) days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect’s reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager’s final accounting.

§ 11.2.2.3 If the Owner’s auditors’ and/or accountants’ report concludes that the Cost of the Work, as substantiated by the Construction Manager’s final accounting, is less than claimed by the Construction Manager, the Construction Manager

shall be entitled to submit a claim in accordance with the Contract Documents. Failure to submit a claim in accordance with the Contract Document shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate for Payment, or as follows:

« »

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

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)

« 0.00 » % « per annum »

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Any Claim or dispute between the Owner and Construction Manager relating to the Project, this Agreement, or the Contract Documents shall be resolved in accordance with Section 1.15 of the Owner's Request for Qualifications dated July 10, 2025.

ARTICLE 13 TERMINATION OR SUSPENSION

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

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than thirty (30) days' written notice to the Owner. For the avoidance of doubt, the execution of one Guaranteed Maximum Price Amendment for one phase of the Work shall not obligate the Owner to proceed with subsequent phases of the Work, and this Section 13.1, including this Subsection 13.1.1, shall apply to the Guaranteed Maximum Price for each of the four phases of the Work.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1 and any Guaranteed Maximum Price Amendment that has been previously agreed to and executed by the Owner and Construction Manager.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than thirty (30) days' written notice to the Owner, for the reasons set forth in Article 14 of A201-2017.

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

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction

Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

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

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

§ 13.1.6.1 Intentionally deleted.

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

§ 13.2.1 Termination

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

§ 13.2.2 Termination by the Owner for Cause

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

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

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

§ 13.2.2.3 In the event Construction Manager is terminated by Owner for cause and it is subsequently determined by a jury, a court of competent jurisdiction, an arbitrator, or an arbitration panel that such termination was wrongful or otherwise without cause, then such termination shall be converted automatically to a termination for convenience pursuant to Section 14.4 of AIA Document A201–2017, and the Construction Manager's remedies against the Owner shall be limited solely and exclusively to those remedies set forth in Section 14.4.3 of AIA Document A201–2017.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager in accordance with Section 14.4.3 of AIA Document A201–2017. . No termination fee shall apply to a termination for convenience.

§ 13.3 Suspension

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

ARTICLE 14 MISCELLANEOUS PROVISIONS

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

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. The Construction Manager shall not assign the Contract in whole or in part without written consent of the Owner. If the Construction Manager attempts to make an assignment without such consent, the Construction Manager shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.3 Insurance and Bonds

§ 14.3.1 For all phases of the Project, the Construction Manager shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2017.

§ 14.3.2 The Construction Manager shall provide bonds as set forth in Exhibit ___, “Owner-Approved Form of Performance and Payment Bonds” and elsewhere in the Contract Documents.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with a building information modeling exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with a building information modeling exhibit, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

« »

§ 14.5 Other provisions:

«§ 14.5.1 E-Verify Requirements

(A) If this contract is awarded pursuant to North Carolina General Statutes (NCGS) 143-129 – (i) the contractor represents and covenants that the contractor and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the NCGS; (ii) the words "contractor," "contractor's subcontractors," and "comply" as used in this subsection (A) shall have the meanings intended by NCGS 143-129(j); and (iii) the City is relying on this subsection (A) in entering into this contract. (B) If this contract is subject to NCGS 143-133.3, the contractor and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NCGS.

ARTICLE 15 SCOPE OF THE AGREEMENT

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

§ 15.2 The following exhibits are attached to the Agreement and incorporated herein by reference:

- .1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™–2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed

- .3 The City's Minority Business Enterprise, Woman Business Enterprise, Disadvantaged Business Enterprise Outreach Plan and Guidelines
- .4 AIA Document A201™–2017, General Conditions of the Contract for Construction (as modified)
- .5 Section 1.15 of the Owner's Request for Qualifications dated July 10, 2025
- .6 Form Payment Bond
- .7 Form Performance Bond
- .8 Owner's Request for Qualifications dated July 10, 2025
- .9 Agreement for Services between the Owner and the Construction Manager dated November 14, 2025
- .10 Other exhibits:
(Check all boxes that apply.)

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

☐

☐ Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

- .11 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

☐

IN WITNESS WHEREOF, this Agreement is entered into by the Owner and the Construction Manager as of the day and year first written above.

Owner:

CITY OF HIGH POINT,
a North Carolina municipal corporation

By: _____

Name: Tasha Logan Ford

Title: City Manager

Preaudit Certificate

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Bobby Fitzjohn, Finance Officer

Construction Manager:

METCON, INC.,
a North Carolina corporation

By: _____

Name: _____

Title: _____

DRAFT

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

« Electric Operations Center
205 Model Farm Road
High Point, NC 27265 »

THE OWNER:

(Name, legal status and address)

« City of High Point, a North Carolina municipal corporation
211 South Hamilton St
High Point, NC 27260 »

THE ARCHITECT:

(Name, legal status and address)

« Lindsey Architecture, P.C., a North Carolina professional corporation
324 South Elm Street
Suite 500
Greensboro, NC 27401 »

TABLE OF ARTICLES

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

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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.

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES

INDEX

(Topics and numbers in bold are Section headings.)

Acceptance of Nonconforming Work

9.6.6, 9.9.3, **12.3**

Acceptance of Work

9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, **12.3**

Access to Work

3.16, 6.2.1, **12.1**

Accident Prevention

10

Acts and Omissions

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

Addenda

1.1.1

Additional Costs, Claims for

3.7.4, 3.7.5, 10.3.2, 15.1.5

Additional Inspections and Testing

9.4.2, 9.8.3, 12.2.1, **13.4**

Additional Time, Claims for

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

Administration of the Contract

3.1.3, **4.2**, 9.4, 9.5

Advertisement or Invitation to Bid

1.1.1

Aesthetic Effect

4.2.13

Allowances

3.8

Applications for Payment

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

Approvals

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

Arbitration

8.3.1, 15.3.2, **15.4**

ARCHITECT

4

Architect, Definition of

4.1.1

Architect, Extent of Authority

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

Architect, Limitations of Authority and
Responsibility

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

Architect's Additional Services and Expenses

2.5, 12.2.1, 13.4.2, 13.4.3, 14.2.4

Architect's Administration of the Contract

3.1.3, 3.7.4, 15.2, 9.4.1, 9.5

Architect's Approvals

2.5, 3.1.3, 3.5, 3.10.2, 4.2.7

Architect's Authority to Reject Work

3.5, 4.2.6, 12.1.2, 12.2.1

Architect's Copyright

1.1.7, 1.5

Architect's Decisions

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

Architect's Inspections

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

Architect's Instructions

3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.4.2

Architect's Interpretations

4.2.11, 4.2.12

Architect's Project Representative

4.2.10

Architect's Relationship with Contractor

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

Architect's Relationship with Subcontractors

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

Architect's Representations

9.4.2, 9.5.1, 9.10.1

Architect's Site Visits

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

Asbestos

10.3.1

Attorneys' Fees

3.18.1, 9.6.8, 9.10.2, 10.3.3

Award of Separate Contracts

6.1.1, 6.1.2

Award of Subcontracts and Other Contracts for Portions of the Work

5.2

Basic Definitions

1.1

Bidding Requirements

1.1.1

Binding Dispute Resolution

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

Bonds, Lien

7.3.4.4, 9.6.8, 9.10.2, 9.10.3

Bonds, Performance, and Payment

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

Building Information Models Use and Reliance **1.8**

Building Permit

3.7.1

Capitalization

1.3

Certificate of Substantial Completion

9.8.3, 9.8.4, 9.8.5

Certificates for Payment

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

Certificates of Inspection, Testing or Approval
13.4.4

Certificates of Insurance

9.10.2

Change Orders

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

Change Orders, Definition of

7.2.1

CHANGES IN THE WORK

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

Claims, Definition of

15.1.1

Claims, Notice of

1.6.2, 15.1.3

CLAIMS AND DISPUTES

3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, **15**, 15.4

Claims and Timely Assertion of Claims

15.4.1

Claims for Additional Cost

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

Claims for Additional Time

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

Concealed or Unknown Conditions, Claims for **3.7.4**

Claims for Damages

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

Claims Subject to Arbitration

15.4.1

Cleaning Up

3.15, 6.3

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

Commencement of the Work, Definition of

8.1.2

Communications

3.9.1, **4.2.4**

Completion, Conditions Relating to

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

COMPLETION, PAYMENTS AND

9

Completion, Substantial

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

Compliance with Laws

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

Concealed or Unknown Conditions

3.7.4, 4.2.8, 8.3.1, 10.3

Conditions of the Contract

1.1.1, 6.1.1, 6.1.4

Consent, Written

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

Consolidation or Joinder

15.4.4

CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

1.1.4, **6**

Construction Change Directive, Definition of

7.3.1

Construction Change Directives

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

Construction Schedules, Contractor's

3.10, 3.11, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2

Contingent Assignment of Subcontracts

5.4, 14.2.2.2

Continuing Contract Performance

15.1.4

Contract, Definition of

1.1.2

CONTRACT, TERMINATION OR SUSPENSION OF THE

5.4.1.1, 5.4.2, 11.5, **14**

Contract Administration

3.1.3, 4, 9.4, 9.5

Contract Award and Execution, Conditions Relating
to

3.7.1, 3.10, 5.2, 6.1

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

Contract Documents, Definition of

1.1.1

Contract Sum

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

Contract Sum, Definition of

9.1

Contract Time

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

Contract Time, Definition of
8.1.1

CONTRACTOR

3

Contractor, Definition of

3.1, 6.1.2

Contractor's Construction and Submittal Schedules

3.10, 3.12.1, 3.12.2, 4.2.3, 6.1.3, 15.1.6.2

Contractor's Employees

2.2.4, 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6,
10.2, 10.3, 11.3, 14.1, 14.2.1.1

Contractor's Liability Insurance

11.1

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

3.12.5, 3.14.2, 4.2.4, 6, 11.3, 12.2.4

Contractor's Relationship with Subcontractors

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

Contractor's Relationship with the Architect

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

Contractor's Representations

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

Contractor's Responsibility for Those Performing the
Work

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

Contractor's Review of Contract Documents

3.2

Contractor's Right to Stop the Work

2.2.2, 9.7

Contractor's Right to Terminate the Contract

14.1

Contractor's Submittals

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

Contractor's Superintendent

3.9, 10.2.6

Contractor's Supervision and Construction

Procedures

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

Coordination and Correlation

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

Copies Furnished of Drawings and Specifications

1.5, 2.3.6, 3.11

Copyrights

1.5, **3.17**

Correction of Work

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

Correlation and Intent of the Contract Documents

1.2

Cost, Definition of

7.3.4

Costs

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

Cutting and Patching

3.14, 6.2.5

Damage to Construction of Owner or Separate
Contractors

3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 12.2.4

Damage to the Work

3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 12.2.4

Damages, Claims for

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

Damages for Delay

6.2.3, 8.3.3, 9.5.1.6, 9.7, 10.3.2, 14.3.2

Date of Commencement of the Work, Definition of
8.1.2

Date of Substantial Completion, Definition of
8.1.3

Day, Definition of

8.1.4

Decisions of the Architect

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

Decisions to Withhold Certification

9.4.1, **9.5**, 9.7, 14.1.1.3

Defective or Nonconforming Work, Acceptance,
Rejection and Correction of

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

Definitions

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

Delays and Extensions of Time

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

Digital Data Use and Transmission

1.7

Disputes

6.3, 7.3.9, 15.1, 15.2

Documents and Samples at the Site

3.11

Drawings, Definition of

1.1.5

Drawings and Specifications, Use and Ownership of
3.11

Effective Date of Insurance

8.2.2

Emergencies

10.4, 14.1.1.2, **15.1.5**

Employees, Contractor's

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

Equipment, Labor, or Materials
1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,
4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3,
9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2
Execution and Progress of the Work
1.1.3, 1.2.1, 1.2.2, 2.3.4, 2.3.6, 3.1, 3.3.1, 3.4.1, 3.7.1,
3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.6, 8.2, 9.5.1,
9.9.1, 10.2, 10.3, 12.1, 12.2, 14.2, 14.3.1, 15.1.4
Extensions of Time
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2,
10.4, 14.3, 15.1.6, **15.2.5**
Failure of Payment
9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2
Faulty Work
(See Defective or Nonconforming Work)
Final Completion and Final Payment
4.2.1, 4.2.9, 9.8.2, **9.10**, 12.3, 14.2.4, 14.4.3
Financial Arrangements, Owner's
2.2.1, 13.2.2, 14.1.1.4
GENERAL PROVISIONS
1
Governing Law
13.1
Guarantees (See Warranty)
Hazardous Materials and Substances
10.2.4, **10.3**
Identification of Subcontractors and Suppliers
5.2.1
Indemnification
3.17, **3.18**, 9.6.8, 9.10.2, 10.3.3, 11.3
Information and Services Required of the Owner
2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10.1, 6.1.3, 6.1.4, 6.2.5,
9.6.1, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2,
14.1.1.4, 14.1.4, 15.1.4
Initial Decision
15.2
Initial Decision Maker, Definition of
1.1.8
Initial Decision Maker, Decisions
14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5
Initial Decision Maker, Extent of Authority
14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5
Injury or Damage to Person or Property
10.2.8, 10.4
Inspections
3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3,
9.9.2, 9.10.1, 12.2.1, 13.4
Instructions to Bidders
1.1.1
Instructions to the Contractor
3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.4.2
Instruments of Service, Definition of
1.1.7
Insurance
6.1.1, 7.3.4, 8.2.2, 9.3.2, 9.8.4, 9.9.1, 9.10.2, 10.2.5,
11
Insurance, Notice of Cancellation or Expiration

11.1.4, 11.2.3
Insurance, Contractor's Liability
11.1
Insurance, Effective Date of
8.2.2, 14.4.2
Insurance, Owner's Liability
11.2
Insurance, Property
10.2.5, 11.2, 11.4, 11.5
Insurance, Stored Materials
9.3.2
INSURANCE AND BONDS
11
Insurance Companies, Consent to Partial Occupancy
9.9.1
Insured loss, Adjustment and Settlement of
11.5
Intent of the Contract Documents
1.2.1, 4.2.7, 4.2.12, 4.2.13
Interest
13.5
Interpretation
1.1.8, 1.2.3, **1.4**, 4.1.1, 5.1, 6.1.2, 15.1.1
Interpretations, Written
4.2.11, 4.2.12
Judgment on Final Award
15.4.2
Labor and Materials, Equipment
1.1.3, 1.1.6, **3.4**, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,
5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1,
10.2.4, 14.2.1.1, 14.2.1.2
Labor Disputes
8.3.1
Laws and Regulations
1.5, 2.3.2, 3.2.3, 3.2.4, 3.6, 3.7, 3.12.10, 3.13, 9.6.4,
9.9.1, 10.2.2, 13.1, 13.3.1, 13.4.2, 13.5, 14, 15.2.8,
15.4
Liens
2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8
Limitations, Statutes of
12.2.5, 15.1.2, 15.4.1.1
Limitations of Liability
3.2.2, 3.5, 3.12.10, 3.12.10.1, 3.17, 3.18.1, 4.2.6,
4.2.7, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 9.6.8, 10.2.5, 10.3.3,
11.3, 12.2.5, 13.3.1
Limitations of Time
2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7,
5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,
9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15,
15.1.2, 15.1.3, 15.1.5
Materials, Hazardous
10.2.4, **10.3**
Materials, Labor, Equipment and
1.1.3, 1.1.6, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,
5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2,
10.2.1.2, 10.2.4, 14.2.1.1, 14.2.1.2

Means, Methods, Techniques, Sequences and Procedures of Construction

3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2

Mechanic's Lien

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

Mediation

8.3.1, 15.1.3.2, 15.2.1, 15.2.5, 15.2.6, **15.3**, 15.4.1, 15.4.1.1

Minor Changes in the Work

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

MISCELLANEOUS PROVISIONS

13

Modifications, Definition of

1.1.1

Modifications to the Contract

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

Mutual Responsibility

6.2

Nonconforming Work, Acceptance of

9.6.6, 9.9.3, **12.3**

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

Notice

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

Notice of Cancellation or Expiration of Insurance

11.1.4, 11.2.3

Notice of Claims

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

Notice of Testing and Inspections

13.4.1, 13.4.2

Observations, Contractor's

3.2, 3.7.4

Occupancy

2.3.1, 9.6.6, 9.8

Orders, Written

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

OWNER

2

Owner, Definition of

2.1.1

Owner, Evidence of Financial Arrangements

2.2, 13.2.2, 14.1.1.4

Owner, Information and Services Required of the

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

Owner's Authority

1.5, 2.1.1, 2.3.32.4, 2.5, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1,

7.3.1, 8.2.2, 8.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1, 9.10.2, 10.3.2, 11.4, 11.5, 12.2.2, 12.3, 13.2.2, 14.3, 14.4, 15.2.7

Owner's Insurance

11.2

Owner's Relationship with Subcontractors

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

Owner's Right to Carry Out the Work

2.5, 14.2.2

Owner's Right to Clean Up

6.3

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

6.1

Owner's Right to Stop the Work

2.4

Owner's Right to Suspend the Work

14.3

Owner's Right to Terminate the Contract

14.2, 14.4

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

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

Partial Occupancy or Use

9.6.6, **9.9**

Patching, Cutting and

3.14, 6.2.5

Patents

3.17

Payment, Applications for

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

Payment, Certificates for

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

Payment, Failure of

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

Payment, Final

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

Payment Bond, Performance Bond and

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**

Payments, Progress

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

PAYMENTS AND COMPLETION

9

Payments to Subcontractors

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

PCB

10.3.1

Performance Bond and Payment Bond

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**

Permits, Fees, Notices and Compliance with Laws

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

PERSONS AND PROPERTY, PROTECTION

OF

10

Polychlorinated Biphenyl
10.3.1
Product Data, Definition of
3.12.2
Product Data and Samples, Shop Drawings
3.11, **3.12**, 4.2.7
Progress and Completion
4.2.2, **8.2**, 9.8, 9.9.1, 14.1.4, 15.1.4
Progress Payments
9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4
Project, Definition of
1.1.4
Project Representatives
4.2.10
Property Insurance
10.2.5, **11.2**
Proposal Requirements
1.1.1
PROTECTION OF PERSONS AND PROPERTY
10
Regulations and Laws
1.5, 2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 9.9.1,
10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14, 15.2.8,
15.4
Rejection of Work
4.2.6, 12.2.1
Releases and Waivers of Liens
9.3.1, 9.10.2
Representations
3.2.1, 3.5, 3.12.6, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.10.1
Representatives
2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.10, 13.2.1
Responsibility for Those Performing the Work
3.3.2, 3.18, 4.2.2, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10
Retainage
9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3
Review of Contract Documents and Field
Conditions by Contractor
3.2, 3.12.7, 6.1.3
Review of Contractor's Submittals by Owner and
Architect
3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2
Review of Shop Drawings, Product Data and
Samples by Contractor
3.12
Rights and Remedies
1.1.2, 2.4, 2.5, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1,
6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.1, 12.2.2,
12.2.4, **13.3**, 14, 15.4
Royalties, Patents and Copyrights
3.17
Rules and Notices for Arbitration
15.4.1
Safety of Persons and Property
10.2, 10.4
Safety Precautions and Programs
3.3.1, 4.2.2, 4.2.7, 5.3, **10.1**, 10.2, 10.4

Samples, Definition of
3.12.3
Samples, Shop Drawings, Product Data and
3.11, **3.12**, 4.2.7
Samples at the Site, Documents and
3.11
Schedule of Values
9.2, 9.3.1
Schedules, Construction
3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2
Separate Contracts and Contractors
1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2
Separate Contractors, Definition of
6.1.1
Shop Drawings, Definition of
3.12.1
Shop Drawings, Product Data and Samples
3.11, **3.12**, 4.2.7
Site, Use of
3.13, 6.1.1, 6.2.1
Site Inspections
3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.9.2, 9.4.2, 9.10.1, 13.4
Site Visits, Architect's
3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4
Special Inspections and Testing
4.2.6, 12.2.1, 13.4
Specifications, Definition of
1.1.6
Specifications
1.1.1, **1.1.6**, 1.2.2, 1.5, 3.12.10, 3.17, 4.2.14
Statute of Limitations
15.1.2, 15.4.1.1
Stopping the Work
2.2.2, 2.4, 9.7, 10.3, 14.1
Stored Materials
6.2.1, 9.3.2, 10.2.1.2, 10.2.4
Subcontractor, Definition of
5.1.1
SUBCONTRACTORS
5
Subcontractors, Work by
1.2.2, 3.3.2, 3.12.1, 3.18, 4.2.3, 5.2.3, 5.3, 5.4,
9.3.1.2, 9.6.7
Subcontractual Relations
5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1
Submittals
3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.4, 9.2, 9.3,
9.8, 9.9.1, 9.10.2, 9.10.3
Submittal Schedule
3.10.2, 3.12.5, 4.2.7
Subrogation, Waivers of
6.1.1, **11.3**
Substances, Hazardous
10.3
Substantial Completion
4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, **9.8**, 9.9.1, 9.10.3,
12.2, 15.1.2

Substantial Completion, Definition of

9.8.1

Substitution of Subcontractors

5.2.3, 5.2.4

Substitution of Architect

2.3.3

Substitutions of Materials

3.4.2, 3.5, 7.3.8

Sub-subcontractor, Definition of

5.1.2

Subsurface Conditions

3.7.4

Successors and Assigns

13.2

Superintendent

3.9, 10.2.6

Supervision and Construction Procedures

1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4,

7.1.3, 7.3.4, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.4

Suppliers

1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.5.4, 9.6,

9.10.5, 14.2.1

Surety

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

15.2.7

Surety, Consent of

9.8.5, 9.10.2, 9.10.3

Surveys

1.1.7, 2.3.4

Suspension by the Owner for Convenience

14.3

Suspension of the Work

3.7.5, 5.4.2, 14.3

Suspension or Termination of the Contract

5.4.1.1, 14

Taxes

3.6, 3.8.2.1, 7.3.4.4

Termination by the Contractor

14.1, 15.1.7

Termination by the Owner for Cause

5.4.1.1, 14.2, 15.1.7

Termination by the Owner for Convenience

14.4

Termination of the Architect

2.3.3

Termination of the Contractor Employment

14.2.2

TERMINATION OR SUSPENSION OF THE CONTRACT

14

Tests and Inspections

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

9.9.2, 9.10.1, 10.3.2, 12.2.1, 13.4

TIME

8

Time, Delays and Extensions of

3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, 8.3, 9.5.1, 9.7,

10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5

Time Limits

2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2,

5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,

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

15.1.2, 15.1.3, 15.4

Time Limits on Claims

3.7.4, 10.2.8, 15.1.2, 15.1.3

Title to Work

9.3.2, 9.3.3

UNCOVERING AND CORRECTION OF WORK

12

Uncovering of Work

12.1

Unforeseen Conditions, Concealed or Unknown

3.7.4, 8.3.1, 10.3

Unit Prices

7.3.3.2, 9.1.2

Use of Documents

1.1.1, 1.5, 2.3.6, 3.12.6, 5.3

Use of Site

3.13, 6.1.1, 6.2.1

Values, Schedule of

9.2, 9.3.1

Waiver of Claims by the Architect

13.3.2

Waiver of Claims by the Contractor

9.10.5, 13.3.2, 15.1.7

Waiver of Claims by the Owner

9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.3.2, 14.2.4, 15.1.7

Waiver of Consequential Damages

14.2.4, 15.1.7

Waiver of Liens

9.3, 9.10.2, 9.10.4

Waivers of Subrogation

6.1.1, 11.3

Warranty

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

15.1.2

Weather Delays

8.3, 15.1.6.2

Work, Definition of

1.1.3

Written Consent

1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.10.3,

13.2, 13.3.2, 15.4.4.2

Written Interpretations

4.2.11, 4.2.12

Written Orders

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

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

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

- A. A written Modification to the Contract signed by both parties
- B. The Agreement (AIA Document A133-2019, as modified) including all exhibits thereto
- C. Specifications issued for construction by the Architect
- D. Drawings issued for construction by the Architect, wherein precedence shall be large scale drawings over small scale, figured dimensions over scaled dimensions, and noted materials over graphic indications.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction (the "Contract"). 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 perform and enforce the Contract as set forth in the Contract Documents.

§ 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 Miscellaneous Defined Terms

"Contractor's Forces" mean the Contractor and its agents and employees; Subcontractors (of any tier) and their agents and employees; and all other persons or entities of any tier performing portions of the Work for, under, or on behalf

of the Contractor, including, without limitation, all suppliers, laborers, workers, mechanics, materialmen, and furnishers of machinery (and parts thereof), equipment, power tools, and supplies.

“Indemnitees” mean the Owner, and all of the respective board members, officers, members, managers, staff, and employees of the Owner,. Any of the Indemnitees referred to in the singular shall be referred to as an “Indemnitee.”

“Losses” mean claims, damages, losses, liabilities, charges, civil penalties, costs, court costs, fines, expenses, or fees (including but not limited to attorneys’ fees, engineers’ fees, architects’ fees, and other professional fees).

The foregoing definitions are not intended to be exhaustive, and the sections that follow may designate other defined terms.

§ 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.

§ 1.2.4 Any rule, principle, canon of interpretation, or other legal principle applicable to contracts not made by North Carolina municipalities that permits modification to, relaxation of, or relief from the requirements of a written contract because of the conduct of a party or its agent shall not apply to the Contract Documents. In all such matters, the requirements of N.C. Gen. Stat. § 160A-16 shall control to the exclusion of such rule, principle, canon of interpretation, and other legal principle applicable to contracts not made by North Carolina municipalities. (N.C. Gen. Stat. § 160A-16 requires all Owner contracts to be in writing, and any contract made in violation of N.C. Gen. Stat. § 160A-16 shall be void and unenforceable unless it is expressly ratified by Owner’s City Council.).

§ 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.

§ 1.6.1.1 The address of the Contractor as provided in its bid, the address of the Contractor and its representative set forth in the A133-2019 (if different than the address of the Contractor given in its bid), and the Contractor's office at or near the site are hereby designated as places to any of which notices, letters, and other communications to the Contractor may properly be served, mailed, or delivered. The delivery of notices, letters, and other communications to the Contractor at any of the above-referenced places, or the depositing in a postage paid wrapper directed to the address of the Contractor and its representative set forth in the A133-2019 or to any address of the Contractor on record with the Corporations Division of the North Carolina Secretary of State, shall be deemed sufficient service thereof upon the Contractor, and the date of said service shall be the date of such delivery or mailing. The Contractor's notice address may be changed at any time by an instrument in writing, executed and acknowledged by the Contractor, and delivered to the Owner and the Architect. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter, or other communication upon the Contractor personally. Additionally, any notice, letter, or other communication (1) may be delivered via email to the email address included in Section 1.1.8 of the A133-2019, if to the Owner, and (2) may be delivered via email to the email address included in Section 1.1.12 of the A133-2019, if to the Contractor; provided, however, that any notice, letter, or communication delivered via email must be actually received by the applicable party to be effective. The Owner and the Contractor may change their respective representative or email address for receipt of notices, letters, and other communications via email by sending a notice to the other party in accordance with this Agreement. For clarity, any email message or messages, including any attachments, shall not by itself or themselves constitute a Modification to the Contract.

§ 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, provided that if the notice of a Claim is directed to the Contractor, effective service of such notice may also be made in the manner set forth in Section 1.6.1.1.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon written protocols governing the transmission and use of, and reliance on, Instruments of Service or any other information or documentation in digital form.

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

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 Intentionally deleted.

§ 2.2 Intentionally deleted.

§ 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 may 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 whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner may 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.

§ 2.3.5.1 Notwithstanding any of the rights and authority granted the Owner in the Contract Documents, the Owner shall not be responsible for or have control over or charge of the Contractor's construction means, methods, techniques, sequences, or procedures or for safety precautions and programs in connection with the Work, and shall not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 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, neglects, or otherwise fails to carry out the Work in accordance with the Contract Documents and fails within a ten (10)-day period after service of notice from the Owner to commence and continue correction of such default, neglect, or failure with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default, neglect, or failure. 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 or its surety 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

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

Execution of the Contract by the Contractor shall further be deemed a representation and warranty by the Contractor to the Owner that:

- .1 The Contractor is experienced in and competent to perform the type of Work required and to furnish the plant, materials, supplies, or equipment to be so performed or furnished by it.
- .2 The Contractor is financially solvent, able to pay its debts as they mature, and possesses of sufficient working capital to initiate and complete the Work required under the Contract according to the construction schedule and within the Guaranteed Maximum Price and the Contract Time.
- .3 The Contractor is familiar with all applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, which may in any way affect the Work or those employed therein, including but not limited to any special laws, rules, or regulations relating to the Work or any part thereof.
- .4 All temporary and permanent Work required by the Contract Documents to be performed by the Contractor shall be satisfactorily constructed and be fit for its intended purpose.
- .5 The Contractor has carefully examined the Contract Documents and the site and that from its own investigations, it has satisfied itself and made itself familiar with: (1) the nature and locations of the Work; (2) the character, quality, and quantity of surface likely to be encountered, including, but not limited to, all structures and obstructions on or at the site, whether natural or man-made; (3) the character of equipment and other facilities needed for the performance of the Work; (4) the general and local conditions of the site including, without limitation, the climatic conditions, the availability and cost of labor, and the availability and cost of materials, tools and equipment; (5) the quality and quantity of all materials, supplies, tools, equipment, labor, and professional services necessary to complete the Work in the manner required by the Contract Documents.
- .6 The Contractor shall fully comply with all requirements of the Contract Documents.
- .7 The Contractor shall perform the Work consistently with good workmanship, sound business practice, and in the most expeditious manner, consistent with the best interests of the Owner.
- .8 The Contractor shall furnish efficient business administration and experienced superintendents and an adequate supply of workers, equipment, tools, and materials at all times.
- .9 The Contractor has carefully reviewed the Work required and that the Work can be planned and executed in a normal and orderly sequence and reasonably scheduled so as to ensure completion of the Project in accordance with the Contract Documents, allowing for normal and reasonably foreseeable weather, labor, and other delays, interruptions, and disruptions of the Work.
- .10 The Contractor shall complete the Work within the Contract Time and all portions thereof within any required Contract deadlines.
- .11 The Guaranteed Maximum Price is based upon the labor, materials, systems, and equipment required by the Contract Documents.
- .12 The Contractor shall make a good faith effort to utilize historically underutilized businesses ("HUBs"), as that term is defined by N.C. Gen. Stat. § 143-128.4, as Subcontractors and others furnishing labor, materials, equipment, and/or services in the Contractor's prosecution of the Work.
- .13 The Contractor is not at the time of the making of the Contract, nor has it been in the last five (5) years, in a legal dispute with the Owner.
- .14 The Contractor is properly licensed in accordance with Section 3.1.1.

§ 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 Architect and the Owner, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe all conditions at the site affecting the Work. 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 in writing 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 licensed 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 and the Owner in writing any potential 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 or the Owner objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors (of any tier) 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 (of any tier).

§ 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 not attributable to the acts or omissions of the Contractor or the Contractor's failure to perform its obligations under the Contract Documents, 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 special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and the Contractor shall transfer or cause to be transferred such warranties to the Owner as close to Substantial Completion as possible, and in any event as a condition precedent to the Owner's release of final payment. All warranties shall commence on the date of Substantial Completion, regardless of when the material, equipment, and/or systems covered by such warranties are first placed into service.

§ 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 Guaranteed Maximum Price 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 Guaranteed Maximum Price 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 Guaranteed Maximum Price 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 Guaranteed Maximum Price but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Guaranteed Maximum Price 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 Substantial Completion Date(s); (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 Guaranteed Maximum Price 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 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

§ 3.18.1.1 To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the Owner, any and all other Indemnitees from and against any and all Losses arising out of or resulting from performance of the Work, provided that such Loss 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 and/or Contractor's Forces. The Contractor shall not be required to indemnify or hold harmless any Indemnitee against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from an Indemnitee's own negligence. The obligations in this section shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity established by the Contract Documents and shall survive completion of the Work until all applicable statutes of limitations for the making of any claim exposing the Indemnitees to Losses have expired.

§ 3.18.1.2 To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the Owner and all other Indemnitees from and against any and all Losses arising out of or resulting from any of the following: (a) failure by the Contractor and/or by the Contractor's Forces to comply with any applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities; (b) the filing of claims of lien on the Project property or upon the Project funds; (c) the Contractor's means, methods, procedures, techniques, or sequences of execution or performance of the Work; (d) any breach by the Contractor of any clause, condition, or provision of the Contract Documents; (e) any other cause resulting from any act or failure to act by the Contractor and/or the Contractor's Forces in connection with the site, the Work, the Project, and/or the Contract Documents; and/or (f) the failure by the Contractor and/or the Contractor's Forces to perform the Work fully and completely in accordance with the Contract Documents. The obligations in this section shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity established by the Contract Documents and shall survive completion of the Work until all applicable statutes of limitations for the making of any claim exposing the Indemnitees to Losses have expired.

§ 3.18.2 In claims against the Owner and/or any other of the Indemnitees by any of the Contractor's Forces, including without limitation the employees of the Contractor's Forces, the indemnification obligation under Sections 3.18.1.1 and 3.18.1.2 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the any person 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 Substantial Completion Date(s) 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 Guaranteed Maximum Price 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 Guaranteed Maximum Price 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. 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. 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 in writing; 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 in writing the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract, but only to the extent such obligations arise following the date of the Owner's assumption thereof. If a Subcontractor objects to any such assignment, the Contractor shall promptly notify the Owner of the objection.

§ 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 actual 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 without the approval of Contractor or any Subcontractor.

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.

§ 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.

§ 6.3 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 may 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 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 Guaranteed Maximum Price; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Except as otherwise provided in the Contract Documents, the Contractor shall prepare the Change Order form, which may include supporting materials prepared by the Architect, for review and approval by the Owner and Architect. A Change Order may deal with the non-engineering or nontechnical, rather than strictly construction-related, aspects of the Contract Documents.

§ 7.2.3 A Change Order, when issued, shall reflect the full compensation, credit, or deduction, as applicable, for the Work included, added, omitted, or substituted, as the case may be. It shall show on its face the adjustment in time, if any, for completion of the Project as a result of the change in the Work. The adjustment in the Guaranteed Maximum Price and/or Contract Time stated in a Change Order shall comprise the total price and/or time adjustment due or owed to the Contractor for the Work or changes defined in the Change Order. Each Change Order shall include all costs related thereto, including all overhead, profit, general conditions costs, miscellaneous expenses, and incidentals. The maximum allowances for overhead and profit ("OH&P") permitted for all Change Orders shall be as follows:

- .1 For Work performed by the Contractor's own employees, the Contractor shall be entitled to fifteen percent (15%) for additive changes and subject to a deduct of five percent (5%) for deductive changes.
- .2 For Work performed by a Subcontractor, the Contractor shall be entitled to five percent (5%) on the amount due to the Subcontractor for additive changes and subject to a deduct of five percent (5%) for deductive changes.

- .3 For Work performed by a Subcontractor by its own forces, or by a Sub-subcontractor by its own forces, said Subcontractor or Sub-subcontractor shall be entitled to no greater than fifteen percent (15%) for additive changes and subject to a deduct of five percent (5%) for deductive changes.
- .4 For Work performed by a Sub-subcontractor, the Subcontractor shall be entitled to five percent (5%) on the amount due to the Sub-subcontractor for additive changes and subject to a deduct of five percent (5%) for deductive changes.

§ 7.2.4 By executing any Change Order, the Contractor acknowledges and agrees that the stipulated price and/or time adjustments set forth therein include the costs and delays for all Work contained in such Change Order, including costs and delays associated with the interruption of schedules, extended overheads, delay, cumulative impacts, and/or ripple effects on all other non-affected Work under the Contract.

§ 7.2.5 The Contractor's execution of any Change Order constitutes: (i) full and mutual accord and satisfaction for the adjustment in the Guaranteed Maximum Price and Contract Time as a result of increases or decreases in costs and time of performance caused directly and indirectly from the changes defined in the Change Order, subject to the current scope of the entire Work as set forth in the Contract Documents; and (ii) the Contractor's agreement with the Owner that the Change Order represents an equitable adjustment to the Contract, and the Contractor's waiver of all and any rights to file any Claim or make any further request for a change to the Contract with respect to the changes defined in such Change Order.

§ 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 Guaranteed Maximum Price 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 Guaranteed Maximum Price 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 Guaranteed Maximum Price, 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 Guaranteed Maximum Price, 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 Guaranteed Maximum Price, 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 Guaranteed Maximum Price or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in the Guaranteed Maximum Price 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 Guaranteed Maximum Price 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 Guaranteed Maximum Price 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 Guaranteed Maximum Price 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, with the written consent of the Owner, 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 Guaranteed Maximum Price 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 Guaranteed Maximum Price 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 Guaranteed Maximum Price or Contract Time, the Contractor waives any adjustment to the Guaranteed Maximum Price 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 Substantial Completion Date(s) is (are) the date(s) 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) changes ordered in the Work; (3) labor disputes, fire, unusual delay in deliveries, unavoidable casualties, pandemic, epidemic, quarantine, plague, governmental orders or action, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's reasonable control; or (4) 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, provided that the Contractor demonstrates that the delay impacts one or more critical path activities on the Construction Schedule.

§ 8.3.2 Any Claim seeking an extension to the Contract Time and/or damages for alleged Owner-caused delay shall be made in accordance with the requirements of Article 15. The failure to make a Claim for an extension to the Contract Time and/or for damages for alleged Owner-caused delay in accordance with Article 15 shall be deemed an irrevocable waiver of the Claim.

§ 8.3.3 Any award of damages to the Contractor and/or to the Contractor's Forces for alleged Owner-caused delay shall include overhead and profit in accordance with the allowances set forth in Section 7.2.3. Under no circumstances shall the Contractor or any of the Contractor's Forces be entitled to recover alleged unabsorbed home office overhead under the *Eichleay* formula or any other computation, it being expressly agreed by the Contractor that any alleged unabsorbed home office overhead is included within the allowances set forth in Section 7.2.3. By executing the Agreement, the Contractor waives claims for alleged unabsorbed home office overhead under the *Eichleay* formula or any other computation. Any award of damages to the Contractor and/or to the Contractor's Forces for alleged Owner-caused delay shall include costs in accordance with the per-day allowances for general conditions as established by the applicable Guaranteed Maximum Price Amendment executed by the Owner and Contractor.

§ 8.3.4 Adverse weather shall be taken into account for purposes of ascertaining delays but only to the extent that actual construction operations on the construction schedule's critical path are delayed. "Adverse weather" for purposes of the Contract is defined as weather that is more severe than the average weather for the particular time(s) and date(s) in question as compared to the most recent five year average for the locale where the Project is located. The "average weather" for purposes of the preceding sentence shall be determined by reference to the "Local Climatological Data" published by the National Oceanic and Atmospheric Administration ("NOAA") for the Project locale. It shall be the responsibility of the Contractor to furnish all data necessary to support any Claim for an extension of the Contract Time based upon delays in construction operations on the construction schedule's critical path due to adverse weather.

§ 8.3.5 Extensions to the Contract Time shall only be granted to the extent the Architect agrees that the Contractor's Claim for a time extension has substantiated delay to the Project construction schedule's critical path. Only delays to the Project's Substantial Completion Date(s) shall warrant an increase in the Contract Time under Section 8.3.1.

§ 8.3.6 The Contractor shall not be entitled to additional compensation or any change in the Guaranteed Maximum Price as a result of approved time extensions due to adverse weather conditions, it being recognized by the Contractor that adverse weather conditions are beyond the control of the Owner and therefore cannot serve as grounds for compensable delay.

§ 8.4 Liquidated Damages for Delay

§ 8.4.1 The damages incurred by the Owner due to the Contractor's failure to complete the Work within the required Contract Time, including any extensions thereof, shall be in the amount set forth in the Agreement for each consecutive day beyond the established Contract Time (Sundays and all holidays included) for which the Contractor fails to complete the Work (the "Liquidated Damages"). The Contractor and the Owner expressly agree that the Contract contemplates the potential apportionment of Project delay, such that the finder of fact in any judicial proceeding that may be required to resolve a dispute concerning Project delay may: (a) attempt to apportion the delay between or among those entities it concludes are responsible for the delay; and (b) may award the Owner Liquidated Damages

for inexcusable delay caused by the Contractor and/or the Contractor's Forces even if the Contractor establishes that the Owner should be apportioned some responsibility for Project delay.

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

The Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Guaranteed Maximum Price 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 By the date established in the Agreement, 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 the time set forth in the Agreement 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.

§ 9.4.3 The Owner may withhold payment to the Contractor, notwithstanding the Architect's certification or issuance of a Certificate for Payment, if necessary in the Owner's sole discretion to protect the Owner from loss due to any of the reasons set forth in Section 9.5.1. The Owner shall also have the right, notwithstanding the Architect's certification or issuance of a Certificate for Payment, to withhold from payment to the Contractor such amounts as permitted by N.C. Gen. Stat. § 143-134.1.

§ 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 Guaranteed Maximum Price;
- .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. The Owner shall also 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 Guaranteed Maximum Price, 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 and the other Indemnitees from and against all Losses 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 thirty (30) days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) 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 (7) 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 Guaranteed Maximum Price 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 Substantial Completion Date(s); 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 Substantial Completion Date 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, or will be paid or satisfied from final payment, (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) written consent of surety, if any, to final payment, (5) operation manuals, maintenance schedules, other manufacturer's information and 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 and hold harmless the Owner and all other Indemnitees from and from and against Losses that may arise from such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after all payments due Contractor 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, without limitation, 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 may, 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. Notwithstanding the foregoing sentence, and pursuant to Section 9.4.3, the Owner reserves the right to dispute such confirmation by the Architect and withhold payment from the Contractor. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

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

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of any indemnity obligations or warranties provided or 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 all 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, anyone directly or indirectly employed by either of them, or anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor or the other Contractor's Forces. 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 Guaranteed Maximum Price 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 or a court of competent jurisdiction 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 such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be undertaken by the Contractor or the Contractor's Forces for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit, and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person, or property damage arising out of ownership, maintenance, or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies approved by the Owner and lawfully authorized to issue insurance in the State of North Carolina.

§ 11.1.2 The insurance required by this Article 11 shall be written for not less than limits of liability specified in the Contract Documents or required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, whichever coverage is greater. Coverages shall be written on an occurrence basis and shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents. In the event that the insurance coverage required herein is not generally commercially available, then the Contractor shall be responsible for paying

for the difference between the total amount of liability and/or damages and the total amount that is covered by its insurance proceeds.

§ 11.1.3 The insurance required by Article 11 shall contain provisions or endorsements that:

- .1 the insurer shall have no right of recovery or subrogation against the Owner, its agents, its agencies, or the Architect, it being the intention of the parties that the insurance policies shall protect both the Owner and the Architect and be primary coverage for any and all losses covered by the policies;
- .2 the clause “other insurance provisions” in a policy in which the Owner, its agents, its agencies, or the Architect is named as an insured, shall not apply to such insured parties;
- .3 the insurance companies issuing the policy or policies shall have no recourse against the Owner, its agents, its agencies, or the Architect for the payment of any premiums or for assessment under any form of policy; and
- .4 any and all deductibles under the insurance policies shall be assumed by and be at the sole risk and expense of the Contractor.

§ 11.1.4 Intentionally deleted.

§ 11.1.5 All insurance policies required under this Article 11 shall be issued by carriers with an A.M. Best rating of A- or better, and each such carrier shall have a minimum financial size (policyholders’ surplus) of at least \$500,000,000. Should the ratings of any insurance carrier insuring the Contractor fall below the minimum rating at any time between the Effective Date of the Contract and final payment to the Contractor, the Owner may in its sole discretion require the Contractor to purchase insurance from a carrier whose rating meets the minimum standard.

§ 11.1.6 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by Article 11 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days’ prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.7 The Contractor shall cause the commercial general liability, commercial automobile liability, umbrella liability, and contractor’s pollution liability coverages required under the Contract Documents to include (1) the Owner, the Owner’s employees, agents, or representatives, the Architect, and the Architect’s consultants as additional insureds for claims caused in whole or in part by the Contractor’s negligent acts or omissions during the Contractor’s operations; and (2) the Owner and its employees, agents, and representatives as additional insureds for claims caused in whole or in part by the Contractor’s negligent acts or omissions during the Contractor’s completed operations.

§ 11.1.8 Specific Insurance Requirements

- .1 The Contractor shall provide insurance coverage for not less than the following amounts and greater coverage where required by law.

Check if Required	Insurance	Minimum Coverage
Commercial General Liability including Premises/Operations; Explosion, Collapse and Underground Property Damages; Products/Completed Operations; Broad Form Contractual; Independent Contractors; Broad Form Property Damage; and Personal Liability. The policy aggregate shall be on a project or location basis. The policy shall name the Owner and its employees, agents, and representatives as additional insureds for ongoing and completed operations (CG 20 10, CG 20 37, or equivalent). The policy shall apply on a primary and non-contributory basis.		
√	Limits in General	\$2,000,000 per occurrence \$4,000,000 general aggregate

√	Personal Injury, with employment exclusion deleted	\$2,000,000 per occurrence
√	Completed Operations Hazard Insurance	\$2,000,000 per occurrence

Commercial Automobile Liability, including all owned (private and others), hired and non-owned vehicles used in the Work. The policy shall name the Owner and its employees, agents, and representatives as additional insureds for ongoing and completed operations (CG 20 48 or equivalent). The policy shall apply on a primary and non-contributory basis. The policy shall provide at least thirty (30) days' notice of cancellation except ten (10) days' notice for nonpayment of premium. The policy shall waive any right of subrogation of the insurer against the Owner.

√	Combined Single Limit (CSL)	\$1,000,000 each accident
---	-----------------------------	---------------------------

Excess Liability / Umbrella Coverage shall be follow-form. The policy shall name the Owner and its employees, agents, and representatives as additional insureds. The policy shall waive any right of subrogation of the insurer against the Owner.

√	Umbrella Liability	\$10,000,000 per occurrence and policy aggregate limit
---	--------------------	--

Workers' Compensation and Employers Liability: The policy shall waive any right of subrogation of the insurer against the Owner.

√	Workers' Compensation	[Statutory Minimum]
---	-----------------------	---------------------

√	Employer's Liability	\$1,000,000
---	----------------------	-------------

Other Lines of Coverage:

√	Builder's Risk/Installation Floater/Fire and Extended Coverage, including vandalism and malicious mischief. The policy shall name the Owner as a Loss Payee.	Guaranteed Maximum Price
---	---	--------------------------

√	Professional Liability: If coverage is written on a claims-made basis, policy shall include a retroactive date no later than the date of commencement of the Work and shall remain in effect for a period of not less than three (3) years following final completion of the Project. The policy shall waive any right of subrogation of the insurer against the Owner.	\$2,000,000 per claim \$4,000,000 general aggregate
---	---	--

√	Contractor's Pollution Liability, including but not limited to coverage for third-party bodily injury and property damage, clean-up costs (on-site and off-site), non-owned disposal site, emergency response costs, and transportation pollution liability. If coverage is written on a claims-made basis, the policy shall include a retroactive date no later than the date of commencement of the Work and shall remain in effect for a period of not less than (3) years following final completion of the Project. The policy shall name the Owner and its employees, agents, and representatives as additional insureds. The policy shall apply on a primary and non-contributory basis. The policy shall waive any right of subrogation	\$2,000,000 per occurrence \$4,000,000 general aggregate
---	---	---

	of the insurer against the Owner.	
√	Cyber Liability (only upon reasonable request of Owner), including but not limited to breach response, data loss, and third-party liability: The policy shall provide full prior acts coverage. The policy shall provide continuity of coverage for a period of not less than three (3) years following final completion of the Project. The policy shall waive any right of subrogation of the insurer against the Owner.	\$1,000,000 per claim
√	Special Hazards Insurance, including coverage for “boiler and machinery”, “blasting and explosion”, “collapse of structure” or “injury to any structure due to contractor’s operations” and “damage to underground structures, pipes or conduits”	Guaranteed Maximum Price

- .2 The insurance policies required hereunder shall not contain any third-party benefit exclusion.
- .3 The Contractor may purchase and maintain excess liability insurance in the umbrella form in order to satisfy the limits of liability required for the insurance to be purchased and maintained in accordance with this section. Evidence of such excess liability shall be delivered to the Owner in the form of a certificate indicating the policy numbers and limits of liability of all underlying insurance. The umbrella liability insurance shall have an aggregate limit of not less than \$10,000,000.
- .4 If any of the property and casualty insurance requirements described herein are not complied with at the renewal dates of the insurance policy or policies, then payments to the Contractor shall be withheld until all requirements have been met, or, in Owner’s sole discretion, if the renewal premiums have not been paid, then the Owner may pay the renewal premiums and setoff all costs thereof from any monies due to the Contractor.
- .5 In the event that claims in excess of the coverage amounts provided herein are filed by reason of any operations under the Contract Documents, the amount of excess of such claims, or any portion thereof, may be, in Owner’s sole discretion, withheld from payment due or to become due to the Contractor until such time as the Contractor shall furnish such additional security covering such claims as may be determined by the Owner.
- .6 The Contractor shall submit to the Owner documentation as to the cost of insurance coverage required hereunder prior to obtaining the policy or policies. The Owner may deem, in its sole discretion, to obtain a portion or all of the coverage on its own and set off all costs incurred by the Owner against any sums due to Contractor by the Owner.
- .7 All Subcontractors shall maintain insurance coverage meeting the same requirements as the Contractor, including limits, endorsements, and conditions specified herein. The Contractor shall ensure compliance and obtain certificates of insurance from each Subcontractor prior to the commencement of any Work by such Subcontractor on the Project.
- .8 The insurance policies required hereunder shall be maintained by the Contractor throughout all phases of the Work and as required thereafter by the Contract, including Section 11.1.13.

§ 11.1.9 Property Insurance

- .1 The Contractor shall purchase and maintain, with a carrier or carriers lawfully authorized to issue insurance in the State of North Carolina, property insurance written on a builder’s risk “all-risk” or equivalent policy form in the amount of the initial Guaranteed Maximum Price, plus the value of subsequent Contract Modifications and the cost of materials supplied or installed by others, comprising the total value for the entire Project at the site on a replacement cost basis, with a deductible amount that is acceptable to the Owner. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until completion of the Work, acceptance of the completed Work by the Owner, and clean-up as provided in Section 3.15, or until no person or entity other than the Owner has an insurable

interest at the site required by this Section 11.1.9 to be covered, whichever is earlier. Such insurance shall include a waiver of co-insurance and provide for an agreed amount endorsement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project. The form of policy for this coverage shall be completed value. If the Owner is damaged by failure of the Contractor to maintain such insurance, then the Contractor shall bear all reasonable costs properly attributable thereto. The requirements in Sections 11.1.2 and 11.1.3 for insurance required by Section 11.1.1 shall also apply to the property insurance required in this Section 11.1.9.

- .2 Property insurance shall be on an “all-risk” or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the Architect’s and the Contractor’s services and expenses required as a result of such insured loss.
- .3 If the property insurance requires deductibles, the Contractor shall pay costs not covered because of such deductibles.
- .4 The property insurance shall name the Owner as a loss payee and provide that all loss proceeds shall be payable to the Owner and the Contractor jointly, as their interests may appear (i.e., in proportion to their respective insurable interests in the Work and materials).
- .5 The property insurance shall cover portions of the Work stored off the site and portions of the Work in transit.
- .6 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain the consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance.

§ 11.1.10 Bonds

- .1 The Contractor shall furnish bonds covering the faithful performance of the Contract and payment of obligations arising thereunder. The bonds shall be written on forms consistent with North Carolina law provided by the Owner and shall be executed by a responsible surety licensed in the State of North Carolina and acceptable to the Owner.
- .2 The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current Power of Attorney.
- .3 By issuing the payment and performance bonds required by the Contract Documents, the surety for any such bond consents in advance to non-cardinal changes that are contemplated under the Contract Documents, or that are routinely issued from time to time on comparable projects.
- .4 For clarity, the Contractor shall furnish bonds covering the faithful performance of the Contract and payment of obligations arising thereunder for each phase of the Work.

§ 11.1.11 Evidence of Bonds and Insurance All evidence of bonds and insurance required in this Article 11 shall be provided prior to the Contractor or the Contractor’s Forces commencing Work at the site or making or accepting delivery of materials or equipment to the site. Evidence of the insurance provided to the Owner shall include at a minimum a certificate of insurance with an endorsement naming the required additional insureds referred to in Section 11.1.7. The Contractor shall furnish copies of insurance policies to the Owner upon the Owner’s request. The failure of the Contractor to timely deliver bonds and evidence of insurance as required by the Contract shall not excuse the Contractor from adhering to the construction schedule for the Work, or otherwise fully and faithfully perform all of its obligations under the Contract Documents, and any such resulting failure of the Contractor to adhere to the construction schedule, the Contract Time, or otherwise fully and faithfully perform all of its obligations under the Contract Documents shall entitle Owner to such sanctions and remedies as are provided in the Contract Documents or by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 11.1.12 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 written notice to the Owner and Architect 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, and Contractor shall not be entitled to any adjustment of Contract Time or Guaranteed Maximum Price. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.1.13 Survival of Insurance Obligations The Contractor's obligation to maintain completed operations, professional liability, contractor's pollution liability, and, if applicable, cyber liability insurance coverages shall survive final payment, termination of the Agreement, or expiration of the Agreement, whichever is latest, for a period of at least three (3) years.

§ 11.2 Intentionally deleted.

§ 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 Contract Documents 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, the Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The Contractor shall be solely responsible for ensuring that all Subcontractors, suppliers, and consultants provide waivers of subrogation in favor of the Owner and other Project participants. 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 to the extent 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.

§ 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 Contractor as fiduciary and made payable to the Contractor 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 Contractor shall pay the insureds their just shares of insurance proceeds received by the Contractor, 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 Contractor shall notify the Owner of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. 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 may be entitled to an equitable adjustment to the Guaranteed Maximum Price 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 (1) year after the Substantial Completion Date 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 under the Contract Documents.

§ 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 Guaranteed Maximum Price 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, permitted assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. The Contractor shall not assign the Contract as a whole without written consent of the other. If the Contractor attempts to make an assignment without such consent, the Contractor 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 or funder providing construction financing or funding for the Project, if the lender or funder 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 the Guaranteed Maximum Price is established. 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.

§ 13.6 Joint Drafting The parties acknowledge that neither these General Conditions, the Agreement, nor any other Contract Document shall be construed against either party due to the fact that they may have been drafted by one party. For the purposes of construing these General Conditions, the Agreement, and any other Contract Document, both the Contractor and the Owner shall be considered to have jointly drafted them.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract upon seven (7) days written notice and opportunity to cure to the Owner and the Architect 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 (of any tier), 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; or
- .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.

§ 14.1.2 The Contractor may terminate the Contract upon seven (7) days written notice and opportunity to cure to the Owner and the Architect when, through no act, omission, or fault of the Contractor, a Subcontractor, a Sub-subcontractor (of any tier), 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' written notice and opportunity to cure 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 actually completed by Contractor, and costs accepted by Owner, and out-of-pocket expenses incurred by reason of such termination, so long as the termination is authorized by the Contract Documents and the Contractor has minimized and mitigated its out-of-pocket expenses..

§ 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 and/or in accordance with the Contract Documents;
- .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 Guaranteed Maximum Price is established 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 or Contractor's surety shall pay the difference to the Owner.

§ 14.2.5 If a termination of the Contractor pursuant to this Section 14.2 is subsequently determined by a jury, a court of competent jurisdiction, an arbitrator, or an arbitration panel to be wrongful, then such termination shall be converted automatically to a termination for convenience pursuant to Section 14.4, and the Contractor's remedies against the Owner shall be limited solely and exclusively to those remedies set forth in Section 14.4.3.

§ 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 Guaranteed Maximum Price and Contract Time may be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Guaranteed Maximum Price 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;
- .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; and
- .4 immediately and expeditiously suspend any ongoing Work and inform the Contractor's Forces of such suspension, all so as to minimize the costs, expenses, and other damage.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed and actual costs incurred by reason of the termination, including costs attributable to termination of Subcontracts. No termination fee shall be paid.

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 Substantial Completion Date 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 with a copy sent to the Architect. 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.

§ 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.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Guaranteed Maximum Price, 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 Dispute Resolution

§ 15.2.1 Any Claim, dispute, or other matter in controversy between the Owner and Contractor relating to the Project, the Agreement, or the Contract Documents shall be resolved in accordance with the Section 1.15 of the Owner's Request for Qualifications dated July 10, 2025, except as exempted by N.C. Gen. Stat. § 143-128(g). The Contractor

shall incorporate Section 1.15 of the Owner's Request for Qualifications dated July 10, 2025, into any subcontracts entered into by the Contractor relating to the Project.

§ 15.3 Intentionally deleted.

§ 15.4 Intentionally deleted.

DRAFT

CITY OF HIGH POINT

AGENDA ITEM



TITLE: Consideration of a Guaranteed Maximum Price Amendment with Construction Manager at Risk Metcon, Inc. for Phase 1 Demolition – Electric Operations Center

FROM:
Tyler Berrier
Electric Utilities Director

MEETING DATE:
May 28, 2026

PUBLIC HEARING:
No

ADVERTISED DATE/BY:
N/A

ATTACHMENTS:

1. AIA Document A133 Exhibit A Guaranteed Maximum Price Amendment
 2. Phase 1 Demolition
-

PURPOSE: Approval of the attached Guaranteed Maximum Price (GMP) Amendment with Metcon, Inc. as the Construction Manager at Risk (CMAR) to demolish the existing structure at 205 Model Farm Road. This will be the first of four phases for construction of the Electric Operations Center.

BACKGROUND: After issuing a Request for Qualifications (RFQ), the City selected Metcon, Inc. as the Construction Manager at Risk (CMAR) for the new Electric Operation Center. City Council is being requested to separately approve the CMAR contract with Metcon, Inc., consisting of the customized AIA Document A133 (Standard Form of Agreement) and AIA Document A201 (General Conditions of the Contract for Construction). This GMP Amendment will amend the CMAR contract to approve Phase 1 Demolition of the existing structure.

BUDGET IMPACT: Funds are available in the FY 2025-2026 Budget.

RECOMMENDED ACTION REQUESTED: City Council is requested to consider a CMAR contract with Metcon, Inc. in the amount of \$166,751 to perform Demolition Services for the Electric Operations Center and authorize the appropriate City Official(s) to execute all necessary documents.

DRAFT AIA® Document A133® – 2019

Exhibit A

Guaranteed Maximum Price Amendment

This Amendment dated the « » day of « » in the year « », is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the « » day of « » in the year « » (the “Agreement”)

(In words, indicate day, month, and year.)

for the following **PROJECT** and **PHASE**:

(Name and address or location)

« Electric Operations Center
205 Model Farm Road
High Point, NC 27265
Phase 1: Demolition»

THE OWNER:

(Name, legal status, and address)

« City of High Point, a North Carolina municipal corporation
211 South Hamilton Street
High Point, NC 27260 »

THE CONSTRUCTION MANAGER:

(Name, legal status, and address)

« Metcon, Inc., a North Carolina corporation
763 Comtech Drive
Pembroke, NC 28372 »

TABLE OF ARTICLES

- A.1 GUARANTEED MAXIMUM PRICE**
- A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED**
- A.4 CONSTRUCTION MANAGER’S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS**

ARTICLE A.1 GUARANTEED MAXIMUM PRICE

§ A.1.1 Guaranteed Maximum Price

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager’s Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

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

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed « » (\$ « »), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 **Itemized Statement of the Guaranteed Maximum Price.** Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager's contingency; alternates; the Construction Manager's Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.

(Provide itemized statement below or reference an attachment.)

« See Construction Manager's Guaranteed Maximum Price – 1: Demolition dated May 26, 2026, attached hereto and incorporated herein by reference. »

§ A.1.1.3 The Construction Manager's Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 The method of adjustment of the Construction Manager's Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 **Alternates**

§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
N/A	

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
N/A		

§ A.1.1.6 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
N/A		

ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ A.2.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

[☒] The date of execution of this Amendment.

[☐] Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

« »

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of execution of this Amendment.

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

§ A.2.3 **Substantial Completion**

§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[☐] Not later than (☐) calendar days from the date of commencement of the Work.

[☒] By the following date:

§ A.2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ A.3.1.2 The following Specifications:

(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

« See Construction Manager's Guaranteed Maximum Price – 1: Demolition dated May 26, 2026. »

Section	Title	Date	Pages

§ A.3.1.3 The following Drawings:

(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

« See Construction Manager's Guaranteed Maximum Price – 1: Demolition dated May 26, 2026. »

Number	Title	Date

§ A.3.1.4 The Sustainability Plan, if any:

(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Construction Manager's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages

Other identifying information:

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:

(Identify each allowance.)

Item	Price
Asbestos abatement	\$35,000

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:
(Identify each assumption and clarification.)

« See Construction Manager's Guaranteed Maximum Price – 1: Demolition dated May 26, 2026. »

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

« See Construction Manager's Guaranteed Maximum Price – 1: Demolition dated May 26, 2026. »

ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:

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

« »

IN WITNESS WHEREOF, this Amendment to the Agreement is entered into by the Owner and the Construction Manager as of the day and year first written above.

Owner:

CITY OF HIGH POINT,
a North Carolina municipal corporation

By: _____

Name: Tasha Logan Ford

Title: City Manager

Preaudit Certificate

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Bobby Fitzjohn, Finance Officer



Construction Manager:

METCON, INC.,
a North Carolina corporation

By: _____

Name: _____

Title: _____





City of High Point

Electrical Operation Center

Guaranteed Maximum Price - 1
Demolition



May 26, 2026

metcon
BUILDINGS ■ INFRASTRUCTURE

2401 Whitehall Park Dr., Suite 650, Charlotte, NC 28273

TABLE OF CONTENTS

1. Executive Summary
2. GMP Summary & Hub Percentage
3. Allowance Log
4. Assumptions and Clarifications
5. Bid Tabulations

CORPORATE

763 Comtech Drive
P.O Box 1149
Pembroke, NC 28372
Phone: 910.521.8013
Fax: 910.521.8014

FAYETTEVILLE

110 Anderson Street
Fayetteville, NC 28301
Phone: 910.849.4197

RALEIGH

3050 Hammond Business Place
Suite 121
Raleigh, NC 27603
Phone: 919.322.2220
Fax: 919.322.2222

CHARLOTTE/COLUMBIA

2401 Whitehall Park Drive
Suite 650
Charlotte, NC 28273
Phone: 980.209.9680
Fax: 980.209.9698

GREENSBORO

1612 E. Market Street
Suite 210
Greensboro, NC 27401
Phone: 336.671.2866

MYRTLE BEACH

981-C Hackler Street
Myrtle Beach, SC 29577
Phone: 843.839.8941

KINGS MOUNTAIN

305 East King Street
Kings Mountain, NC 28086
Phone: 704.750.3040

City of High Point Electrical Utilities Department
C/o Tyler Berrier
816 E Green Dr,
High Point, NC 27260
RE: High Point Electrical Operation Center
GMP1 Demolition

Dear Mr. Berrier,

Enclosed, you will find Metcon, Inc.'s (Metcon) Guaranteed Maximum Price (GMP) 1-Demolition for the City of High Point Electrical Operation Center. To arrive at GMP I, we have contacted the best subcontractors in our network and advertised in the local newspaper. We received multiple bids for each bid package to achieve competitive pricing. This Executive Summary includes any clarifications related to GMP One Demolitions. Please see the following page for Clarifications.

- GMP Summary & Hub Percentage
- Allowance Log
- Clarification and Assumptions
- Bid Tabulations

In conclusion, the GMP 1 demolition is one hundred sixty-six thousand seven hundred fifty-one dollars, \$166,751.

We look forward to a very successful project.

Sincerely,



Metcon Inc.
Russ Partin, Senior Vice President
CC: Daniel Patete, Metcon
Britt Butler, Metcon
Jay Patel, Metcon

02. GMP SUMMARY AND HUB
PERCENTAGE



GMP TOTAL SUMMARY
 April 16, 2026
High Point Electrical Operation Center - GMP1
 City of High Point

BID PACKAGE	BID PACKAGE DESCRIPTION	Number of Bidders	APPARENT LOW BIDDER	CONTRACT AMOUNT	TOTAL \$ HUB	TOTAL % HUB
BP0241 - DEMOLITION		6	A-1 Service Group	88,000.00	10,000.00	11.36%
	General Requirements			2,900.00		
				-		
SUBTOTAL COST OF WORK				\$ 90,900	\$ 10,000	11.36%
1.50%	Subcontractor Trade Insurance / Sub P&P Bond			\$ 1,363.50		
0.00%	Escalation			\$ -		
Cost of Work Subtotal with Escalation				\$ 92,263.50		
0.25%	Technology Fee (Procore, GC Pays)			\$ 417		
0.00%	Preconstruction /Design Progress Contingency			\$ -		
0.00%	Design/Owner Contingency for Construction			\$ -		
3.00%	CMAR Contingency			\$ 2,768		
1.25%	Metcon Performance & Payment Bonds			\$ 2,084		
0.25%	Metcon Builder's Risk Insurance			\$ 417		
1.04%	Metcon General Liability Insurance			\$ 1,734		
Cost of Work Subtotal with Contingency & Insurances				\$ 99,684		
5.00%	CMAR Fee			\$ 8,338		
1	General Conditions (Lump Sum)			\$ 58,730		
GMP 1- DEMOLITION				\$ 166,751	\$ 10,000	



GMP SCHEDULE OF ALLOWANCES
 April 9, 2026
High Point Electrical Operation Center - GMP1
 City of High Point

ALLOW #	BID PACKAGE	DESCRIPTION	QUANTITY	UNIT OF MEASURE	UNIT PRICE	ALLOWANCE AMOUNT
01	BP0241- DEMOLITION	ABATEMENT	1	LS	\$ 35,000.00	\$ 35,000
			-		\$ -	\$ -
			-		\$ -	\$ -
ALLOWANCE TOTAL						\$ 35,000

City of High Point Electrical Operation Center
Clarifications and Assumptions

May 26, 2026

1. The Guaranteed Maximum Price (GMP) includes a three percent (3%) construction contingency to cover the cost of trade gaps and omissions. Please see the approved contract for any unused contingency.
2. An asbestos survey will be provided by the demolition contractor. We have included a \$35,000 allowance for the abatement.
3. We have included demolition & abatement permits and the associated costs with them.
4. The GMP includes the existing building to be demolished and leaves the concrete slab and footing in place to be demolished in the upcoming GMP.
5. The following items are **not included** in the GMP.
 - a. Utilities Disconnect
 - b. Asphalt
 - c. Building slab and foundation
 - d. Underground Utilities

DATE OF BID EXPIRATIONS

Subcontractors are required to hold bids for 90 days from April 2, 2026.

SPECIFIC EXCLUSIONS:

Escalation Clause: Due to tariffs, geopolitical instability, or unforeseen public health emergencies, the price and availability of some building components and materials (including fuel) are volatile, and sudden price changes or delivery delays can occur. Construction Manager agrees to use best efforts to obtain the lowest possible prices for such items for use on the Project. If, despite Construction Manager's efforts, there is an increase in the price or delay in the delivery of building components or materials for this Project that arise after the execution of this Agreement directly resulting from tariffs, geo-political instability, or unforeseen public health emergencies, the Owner/Contractors agree to an escalation allowance as agreed upon by the parties for the impact of such delays. Any such changes to the GMP or Contract Time will be memorialized in a Change Order. Construction Manager shall not apply its fee markup to cost escalation adjustments under this section. The existence and timing of such cost escalation must be fully documented by Construction Manager and shall be subject to the following conditions: (a) Construction Manager must provide written notice to the Owner of any anticipated cost escalation within ten (10) days of becoming aware of such escalation; (b) Construction Manager must submit detailed documentation, including supplier quotes or other evidence reasonably acceptable to Owner, to substantiate the increased costs; (c) Owner shall have the right to verify the cost escalation through independent means and (d) Construction Manager shall undertake all reasonable efforts to mitigate the impact of cost escalations, including seeking alternative suppliers or materials where feasible.



05. BID TABULATIONS

Bid Package

BP0241 - DEMOLTION

Bid Date / Time:

4/2/2026 at 2:00 PM

Project Name:

High Point Electrical Operation Center - GMP1

Project Number:

2025061

Location:

205 Model Farm Road, High Point, NC 27263

Precon Mgr:

Jay Patel

Constr Mgr:

Britt Butler



Certification By:

Jay Patel

Bids Received:			Bidder #1	Bidder #2	Bidder #3	Bidder #4	Bidder #5	Bidder #6	Bidder #7	Bidder #8	Bidder #9	Bidder #10
Bidder Name			A-1 Service Group	D.H. Griffin	EHG	EMR	Foss Demolition	Trifecta				
Base Bid Amount			\$ 88,000.00	\$ 114,593.00	\$ 124,700.00	\$ 106,877.00	\$ 232,000.00	\$ 127,480.00				
Alternates												
MET-1		P&P Bonds	\$ 4,400.00	\$ 2,291.00	\$ -	\$ 3,740.00	\$ 4,640.00	\$ 3,250.00				
Alternate Bid Amount			\$ 88,000.00	\$ 114,593.00	\$ 124,700.00	\$ 106,877.00	\$ 232,000.00	\$ 127,480.00				
Bid Inclusion Items:												
Addenda Acknowledgement	(Yes / No)		Yes	Yes	Yes	Yes	Yes	Yes				
Signed & Sealed Bid Form	(Yes / No)		Yes	Yes	Yes	Yes	Yes	Yes				
MWBE Documents	(Yes / No)		Yes	Yes	Yes	Yes	Yes	Yes				
Bid Bond Attached	(Yes / No)		Yes	Yes	Yes	Yes	Yes	Yes				
Unit Prices & Allowances												
Status:			Apparent Low						Did Not Bid	Did Not Bid	Did Not Bid	Did Not Bid

CITY OF HIGH POINT

AGENDA ITEM



TITLE: Consideration of a Task Order for Architectural Services with Lindsey Architecture, P.C.

FROM:
Tyler Berrier
Electric Utilities Director

MEETING DATE:
May 28, 2026

PUBLIC HEARING:
No

ADVERTISED DATE/BY:
N/A

ATTACHMENTS:
1. Proposal

PURPOSE: To approve a task order for architectural services, with Lindsey Architecture, P.C., at 205 Model Farm Road, the future site of the Electric Operations Center.

BACKGROUND: The City's existing electrical operations facilities are no longer adequate to support current and future operational needs. The department has experienced continued growth in personnel, equipment, and service demands, while the existing facilities face limitations related to space, functionality, safety, and operational efficiency. A new Electrical Operations Center and Back-up 911 Center is needed to provide centralized office and field operations space that will improve coordination, enhance emergency response capabilities, and support reliable utility service delivery to the community.

To date, the City has used Lindsey Architecture, P.C. for pre-construction and programming services, a proposal that was accepted and executed in May 2025. Under that proposal, the City has completed preliminary design and conceptual exteriors for the site. The City has also completed the initial civil site plans and sketches. The proposed agreement for a task order for architectural services will allow the City to begin the planning and design development, construction documents & construction administration necessary for future project development.

BUDGET IMPACT: Funds available in FY 2025-2026 Budget.

RECOMMENDED ACTION REQUESTED: City Council is requested to consider a task order for architectural services with Lindsey Architecture, P.C. in the amount of \$1,573,660 for 205 Model Farm Road, the future site of the Electric Operations Center, and authorize the appropriate City Official(s) to execute all necessary documents.



May 11, 2026

Mr. Tyler Berrier, PE
Electric Utility Director
City of High Point

**RE: City of High Point – Electric Utility Operations Facility
Design Development, Construction Documents & Construction Administration
High Point, NC
Proposal No: 26-000-019**

Dear Mr. Berrier,

Lindsey Architecture appreciates the opportunity to present a proposal for architectural and engineering design services to complete design and construction administration for the City of High Point Electric Utility Operations Facility located at 205 Model Farm Road. This proposal encompasses a design development phase, construction documents phase and a construction administration phase.

Lindsey Architecture has teamed with the following to execute the services included in this proposal:

- SKA Consulting Engineers Structural, Mechanical, Electrical, Plumbing & Fire Protection
- Glover Engineering Civil (Construction Administration Phase services only; Design is included in previous contract)
- We have included an allowance in our fee for a landscape architect to complete the planting plan and address related TRC review comments. Once a landscape architect is confirmed, the allowance will be adjusted to reflect their actual fee.
- Our fee does not include audio/visual or special systems design for the training/multi-purpose room, SCADA control areas or 911 call center, as we assume that the City's IT and/or 911 departments are able to provide specific requirements for those areas. If needed, we can provide a consultant for design of these areas as an additional service.

Project Scope:

The following understanding of the project scope is based on the previously completed schematic design as agreed upon by the project team and Owner:

- Construction of an approximately 50,000 square foot building to house office/administrative, meeting/training and support spaces along with a warehouse, SCADA area and a 911 call center and data room.
- Construction of a pre-engineered building for covered parking/storage area, with multiple open-air bays and one enclosed bay for secured storage.
- Building systems (HVAC, power, lighting, plumbing, fire protection and fire alarm) will be provided to accommodate new facility design.
- A utility yard connected to the main building with a perimeter screen wall will house mechanical and electrical equipment on ground supported slabs.
- Additional details related to project scope can be found by referencing the schematic design package.
- The project construction budget is approximately \$40,000,000.

**Scope of Services:**

Based on our understanding of the project, we will provide the following services:

Design Development (DD) Phase Services:

Based on the Owner's approval of the proposed schematic design, LA and its consultants will continue into the Design Development phase to include the following services:

1. Develop Revit model for architectural, interior, structural and MEPFP systems.
2. Continue development of the architectural and interior design for the building.
3. Prepare interior design material and finish palette for review and incorporation into the design.
4. Further develop exterior building design direction approved during schematic design and provide finalized renderings.
5. Develop sizing and design for foundation and framing components.
6. Complete calculation of cooling, heating and ventilation loads.
7. Design rooftop units (RTUs) to deliver heated, cooled, dehumidified and filtered air to appropriate spaces throughout the building.
8. Design power distribution system and full building back-up and life-safety power system.
9. Design fire alarm system.
10. Design lighting system and control system.
11. Design telecommunications and security system in coordination with the Owner.
12. Design domestic water system and sanitary waste/vent systems.
13. Design storm drainage system to tie into storm sewer as designed by Civil Engineer.
14. Design a fully automatic wet-pipe fire protection system throughout, a dry pipe system for exterior canopy (if required) and specialized system for server rooms as needed.
15. Prepare typical representative plans and sections for foundation/slab design and framing design.
16. Prepare preliminary technical specifications for construction shown on design development drawings.
17. The following meetings are anticipated and included during the Design Development phase:
 - a. Coordination/design meetings:
 - i. LA: weekly, assuming (6) week duration
 - ii. SKA: as needed, no more than weekly in person meetings for (6) week duration

Construction Document (CD) Phase Services:

Following confirmation of the project pricing and approval of the proposed design, LA and its consultants will address comments related to the Design Development review, then complete construction/permit documents required to obtain a building permit and execute the construction of the project scope.

Specific services include:

1. Complete architectural/interior design documents
2. Complete structural design documents.
3. Complete MEPFP design documents.
4. Coordinate with the civil design documents completed under a separate contract.
5. Coordinate with other design disciplines and/or equipment provided by the Owner.
6. Our fee assumes that we will complete an Early Package for Steel and Concrete as dictated by CMAR's pre-construction schedule.
7. Prepare a project manual with technical specifications.
8. Submit a signed/sealed PDF set of drawings to the City of High Point's Plan Review Department.
 - a. Promptly address comments that arise from the review.
9. Submit a signed/sealed PDF set of drawings to the Office of the State Fire Marshal's Commercial Plan Review Section for review per NCGS 58-31-41.



- a. Promptly address comments that arise from the review.
10. Provide assistance to the CMAR during Bidding:
 - a. Review bidder RFIs during each bid phase and prepare addenda to address coordination and bidder RFIs
 - b. Attend bid-related meetings noted below.
11. The following meetings are anticipated and included during the Construction Document phase:
 - a. CD Phase kickoff meeting attended by the full team
 - b. Coordination/design meetings:
 - i. LA: weekly, assuming (14) week duration
 - ii. SKA: as needed, no more than weekly in person meetings for (14) week duration
 - c. (2) "page turn" review meetings with Project Team and City of High Point to review design progress.
 - d. Pre-bid meetings for each GMP package, and applicable post-bid review meetings.
 - e. GMP review meeting.

Construction Administration (CA) Phase Services:

Architecture/Interior Design

1. Participate in pre-construction meeting with CMAR and Owner
2. Attend pre-installation meeting(s) as necessary
3. Review and respond to reasonable requests for information (RFIs)
4. Review architectural/interior submittals and shop drawings
5. Provide a final materials/finish board for final Owner approval
6. Review and make recommendations to the Owner regarding contractor change requests
7. Review and certify contractor pay applications
8. Participate in bi-weekly progress meetings and perform site visits with field observation report for the duration of construction
 - a. Our fee assumes a sixteen (16) month duration
9. Conduct up to twenty-four (24) additional site visits to resolve issues and confirm general compliance with the drawings and specifications
 - a. Provide observation report for each visit
10. Perform up to three (3) punch list inspections and subsequent final inspections
11. Prepare substantial completion documentation
12. Review closeout documentation

Civil Engineering

1. Attend pre-construction meeting with CMAR and Owner
2. Review civil submittals/shop drawings
3. Review and respond to reasonable requests for information (RFIs)
4. Participate in weekly site meetings prior to pad preparation
5. Participate in site meetings averaging once every two weeks following pad preparation
6. Utilizing redline markups provided by the Contractor, prepare and submit as-built drawings for storm sewer, water and sewer mains to the City of High Point
 - a. Promptly address as-built review comments and resubmit for approval
7. Provide as-built drawing and certification for the wet detention pond following conversion

Structural Engineering

1. Attend pre-construction meeting with CMAR and Owner
2. Review structural submittals and shop drawings
3. Respond to reasonable requests for information (RFIs)
4. Attend OAC/construction progress meetings for length of primary structural construction
5. Perform up to fourteen (14) site visits to observe construction and resolve field issues in conjunction with OAC meetings noted above



- a. Provide observation report for each visit.
6. Review all Special Inspection reports and material testing reports for the structural scope of work.

MEPFP Engineering

1. Attend pre-construction meeting with CMAR and Owner
2. Review MEPFP submittals and shop drawings
3. Respond to reasonable requests for information (RFIs)
4. Attend OAC/construction progress meetings for length of primary MEPFP construction
5. Perform up to fourteen (15) site visits to observe construction and resolve field issues in conjunction with OAC meetings noted above
 - a. Provide observation report for each visit
6. Perform a final punch list

Summary of Fees:

Design Development Phase	\$ 328,560.00
Construction Document Phase	\$ 583,400.00
Construction Administration Phase	\$ 653,700.00
Landscape Design Allowance	\$ 8,000.00
Proposed Design Fee.....	<u>\$ 1,573,660.00</u>

Basis for fee:

1. The proposed fees are lump sum amounts based on the scope of work as described.
2. Reimbursable expenses such as travel expenses, mileage, postage and process printing are included in the lump sum fees.
3. The Owner will provide topographic and utility survey information for design team's use (provided during Schematic Design phase).
4. The Owner or will furnish the services of a geotechnical engineer to determine subsurface conditions, with appropriate professional interpretations thereof. These recommendations will be used in determining site grading criteria, seismic site classification and soil conditions for foundation design (provided during Schematic Design Phase).
5. The scope of service is based on the requirements of the City of High Point, North Carolina and Guilford County, in effect at the time of the contract. If rules, regulations, ordinances, or submittal/approval procedures change, the design team reserves the right to revise scope, schedule and/or compensation.
6. Our fee assumes the development of a BIM model to complete the construction documents and for use by CMAR for budgeting and constructability review. The architectural and structural BIM models will be provided at a Level of Development (LOD) 300 at the conclusion of the Construction Documents phase. Level of Development is as described in the 2015 BIMForum Level of Development Specification.

Excluded Services:

1. Architectural/interior design, structural, civil or landscape design services beyond the scope specifically included herein
2. Branding and wayfinding design (basic room identification and building signage is included)
3. Furniture selection and procurement
4. Equipment selection
5. Audiovisual system design
6. Site lighting design
7. Fire pump calculations/design and associated permits
8. Rezoning and Special Use Permit



9. Traffic Impact Analysis and/or signal design
10. Special Inspections
11. LEED (or other similar accreditation) documentation
12. Environmental/Geotechnical engineering/testing
13. Site utilities and topographic survey
14. Hazardous materials testing or remediation
15. Review fees, inspection fees, impact fees, meter fees, capacity use fees, etc.
16. Construction survey, as-built survey, construction staking, platting
17. Cost estimating or takeoffs

Should additional services be required during the course of the project, Lindsey Architecture and our consultant(s) will provide the services per the attached rate schedules or at an agreed upon lump sum additional fee. No services will be provided prior to City of High Point's written direction.

This project shall be executed per the terms of the Master Agreement for Professional Services between the City of High Point and Lindsey Architecture. Request to commence work prior to receipt of a signed agreement indicates acceptance of agreement as presented.

Thank you for allowing us to present this proposal to you. We look forward to working with you again and continuing to build our relationship with the City of High Point. Please let me know if you have any questions or comments.

Sincerely,

Emily K. Hinton, AIA, NCARB, DBIA
Vice President/Principal

CC: File



All terms and conditions of the prime proposal letter shall govern the agreement between parties, and shall be further supplemented by the following provisions regarding payments, hourly rates, and additional services and reimbursable expenses

Hourly Rate Schedule

Principal	\$ 198.00
Senior Architect	\$ 168.00
Senior Interior Designer	\$ 168.00
Project Architect	\$ 146.00
Interior Designer/Project Manager	\$ 146.00
Architectural Designer	\$ 140.00
Graphic Design	\$ 140.00
Technician	\$ 128.00
Clerical/Administration	\$ 92.00

Reimbursable expenses shall be billed monthly as accumulated, with attached copies of invoices for non-labor direct expenses made on behalf of the project and shall be billed at one and one tenth (1.1) times cost. Reimbursable expenses include, but are not limited to:

Reimbursable Schedule

Reproduction	
Electrostatic Prints	\$ 0.70 per square foot
Sepia/Vellum	Actual Cost
Photo Copies	\$ 0.12 each
Color Copies	\$ 1.00 each
Mileage	Current IRS Rate
Supplies	Actual Cost
Postage/Shipping	Actual Cost
Travel	Actual Cost

CITY OF HIGH POINT

AGENDA ITEM



TITLE: Consideration of a Contract with Wesco Distribution, Inc.

FROM:
Tyler Berrier
Electric Utilities Director

MEETING DATE:
May 28, 2026

PUBLIC HEARING:
No

ADVERTISED DATE/BY:
N/A

ATTACHMENTS:

1. Picture
 2. CHM Pole Information
 3. Quote
 4. Bid Recommendation Form
-

PURPOSE: The Electric Department is requesting to execute a contract through Sourcewell, a cooperative purchasing contract, to purchase steel transmission poles.

BACKGROUND: The Electric Department regularly performs system and grid maintenance. The department has recently conducted structural pole testing on our 100kV transmission poles. These poles being procured will be used to replace deficient poles on our system. Forty-nine total poles are being procured through this purchase. A breakdown can be found in the attached documents.

BUDGET IMPACT: Funds are available in the FY 2025-2026 budget.

RECOMMENDED ACTION REQUESTED: City Council is requested to approve a Sourcewell contract with Wesco Distribution, Inc. in the amount of \$582,826.24 for steel transmission pole replacements and authorize the appropriate City Official(s) to execute all necessary documents.



ESTIMATED WEIGHT TAKE OFF

Quote Number: K17359-226

End User: _____

Chapman-Wesco-City of High Point-NC

Est. Total Wt.	160,044	lbs.
Qty.	49	
Des. Qty.	12	

Qty	Product ID	WPE Class	Length	Tube	Top Plate	Bearing Plate	Ground Sleeve	Weight	Extend Weight
1	CHMH1045	H1	45	1,030	8	25	87	1,150	1,150
1	CHMH1050	H1	50	1,183	8	27	91	1,309	1,309
2	CHMH1055	H1	55	1,382	8	28	93	1,511	3,022
1	CHMH1060	H1	60	1,545	8	31	97	1,681	1,681
1	CHMH1065	H1	65	1,716	8	33	101	1,858	1,858
1	CHMH1070	H1	70	1,929	8	36	105	2,078	2,078
4	CHMH1075	H1	75	2,115	8	38	109	2,270	9,080
2	CHMH1085	H1	85	2,510	8	44	117	2,679	5,358
5	CHMH1090	H1	90	2,719	8	47	122	2,896	14,480
10	CHMH3095	H3	95	3,387	9	66	145	3,607	36,070
20	CHMH3100	H3	100	3,647	9	70	150	3,876	77,520
1	CHMH5115	H5	115	6,121	10	114	193	6,438	6,438

Finish: Galvanized

Targuard: Yes

Drill Hole: Customer Spec

Freight: NC

Ground Seelve: 3

***If Galvanized, Estimated Weight does not include Galvanizing in the final weight.**



116 TRIWEST DRIVE

MOCKSVILLE NC 27028

Quotation

Wesco may assess storage and transportation fees if you do not take or accept delivery within 90 days of product availability. Wesco may also update this quote or above pricing due to changes in duties, freight, tariffs, supplier pricing, surcharges, commodity pricing, or exchange rate fluctuations.

To: CITY OF HIGH POINT
657 E RUSSELL AVE
SOURCEWELL ACCT# 091422-WES
HIGH POINT NC 27260

Date: 05/13/26

Branch: 7884

Project Number: GREG WILLIAMS

Project Name

Quoted To:

Date of Your Inquiry: 05/13/26

When ordering please refer
to Quotation Number: 550860

Item	Quantity	Catalog Number and Description	Unit Price	U/M	Total Price	Rate of Cash Discount	Shipping Time (Weeks)	Customer Delivery Date
10	1	MISC**EACH*CHMH1045 H1-45 '	3923.100	E	3923.10	0.00		10/ 16/26
20	1	MISC**EACH*CHMH1050 H1-50 '	4465.520	E	4465.52	0.00		10/ 16/26
30	2	MISC**EACH*CHMH1055 H1-55 '	5154.620	E	10309.24	0.00		10/ 16/26
40	1	MISC**EACH*CHMH1060 H1-60 '	5734.560	E	5734.56	0.00		10/ 16/26
50	1	MISC**EACH*CHMH1065 H1-65 '	6338.370	E	6338.37	0.00		10/ 16/26
60	1	MISC**EACH*CHMH1070 H1-70 '	7088.870	E	7088.87	0.00		10/ 16/26
70	4	MISC**EACH*CHMH1075 H1-75 '	7743.860	E	30975.44	0.00		10/ 16/26
80	2	MISC**EACH*CHMH1085 H1-85 '	9139.130	E	18278.26	0.00		10/ 16/26
90	5	MISC**EACH*CHMH1090 H1-90 '	9879.390	E	49396.95	0.00		10/ 16/26
100	10	MISC**EACH*CHMH3095 H3-95 '	12304.900	E	123049.00	0.00		10/ 16/26
110	20	MISC**EACH*CHMH3100 H3-100 '	13222.560	E	264451.20	0.00		10/ 16/26
120	1	MISC**EACH*CHMH5115 H5-115 '	21962.550	E	21962.55	0.00		10/ 16/26
SUB-TOTAL					545973.06			
ESTIMATED TAX					36853.18			
TOTAL					582826.24			

Wesco may assess storage and transportation fees if you do not take or accept delivery within 90 days of product availability. Wesco may also update this quote or above pricing due to duties, freight, tariffs, supplier pricing, surcharges, or exchange rate fluctuations. BY ACCEPTING THIS QUOTE, YOU AGREE THAT THE TERMS AND CONDITIONS OF SALE PUBLISHED AT www.wesco.com/termsofsale ARE EXPRESSLY INCORPORATED INTO AND SHALL GOVERN THIS TRANSACTION.

Per:

BID RECOMMENDATION

DEPARTMENT:

COUNCIL AGENDA DATE:

BID NO.: CONTRACT NO.: DATE OPEN:

DESCRIPTION:

PURPOSE:

COMMENTS:

RECOMMEND AWARD TO: AMOUNT:

JUSTIFICATION:

ACCOUNTING UNIT	ACCOUNT	ACTIVITY	CATEGORY	BUDGETED AMOUNT
TOTAL BUDGETED AMOUNT				

DEPARTMENT HEAD: DATE:

The Purchasing Division concurs with recommendation submitted by the and recommends
award to the lowest responsible, responsive bidder in the amount of .

PURCHASING
MANAGER: DATE:

Approved for Submission to
Council

FINANCIAL SERVICES DIRECTOR: DATE:

CITY MANAGER: DATE:

(For City Council Approval Only)

CITY OF HIGH POINT

AGENDA ITEM



TITLE: Consideration of an Agreement with Community Housing Solutions

FROM:

Thanena Wilson
Community Development & Housing Director

MEETING DATE:

May 28, 2026

PUBLIC HEARING:

No

ADVERTISED DATE/BY:

N/A

ATTACHMENTS:

1. Development Budgets
-

PURPOSE: The Community Development and Housing Department proposes to execute a Community Housing Development Organization (CHDO) Agreement with Community Housing Solutions (CHS) in the amount of \$140,000 to construct four affordable homes in the Southside community. The units will be located at 812 and 814 Mobile Street, and 821 and 822 Hilltop Street. Construction is expected to begin in July 2026.

BACKGROUND: CHS has proven to be a valuable partner in the City's affordable housing development efforts. Construction of these four homes will continue to support redevelopment of the Southside neighborhood, and provide decent, safe, affordable housing for low-income households.

BUDGET IMPACT: HOME Federal Funds will be available in the FY 2026-27 budget, pending adoption by the Mayor and City Council.

RECOMMENDED ACTION REQUESTED: City Council is requested to consider an agreement with Community Housing Solutions in the amount of \$140,000 for the construction of four affordable homes in the Southside community and authorize the appropriate City Official (s) to execute all necessary documents.

Community Housing Solutions - Acquisition/New/Resale Program
Development Budget

812 Mobile Street - Franklin II

ITEM	ESTIMATE	ASSUMPTIONS
<u>Acquisition</u>		
Purchase price	\$ -	
Appraisal fee	\$ 510.00	if required by Lender
Credit report fee	\$ -	
Flood certification fee	\$ 7.50	\$12-60
Pro-rated taxes	\$ -	depends on time of year/whether any are paid
Realtor Fee	\$ -	
Attorney fee/title search	\$ 950.00	
Title insurance	\$ 550.00	\$2 per \$1,000 value
Recording fee	\$ 70.00	\$20-80
Loan Document Processing	\$ -	
Loan Origination Fee	\$ 1,435.00	
Termite inspection	\$ -	
Other Inspections	\$ -	
Survey	\$ -	
Overnight mail fee	\$ -	
SUBTOTAL	\$ 3,522.50	
<u>Construction</u>		
Anticipated number of weeks	20	
Contracted Services	\$ 228,147.00	
Sitework	\$ 25,100.00	
Construction contingency	\$ 5,000.00	
AE - Systems Vision Assessment	\$ 1,200.00	
SUBTOTAL	\$ 259,447.00	
<u>Carrying costs</u>		
Utilities	\$ -	
Property insurance	\$ 500.00	Annual Builder's Risk Premium
Loan interest payments	\$ 1,500.00	
SUBTOTAL	\$ 2,000.00	
TOTAL BUILD COSTS	\$ 264,970	
NON-CHDO PROCEED FUNDS	\$ 86,470	
Pinnacle Loan	\$ 143,500.00	
City funds needed	\$ 35,000.00	

Community Housing Solutions - Acquisition/New/Resale Program
Development Budget

814 Mobile Street - Fisher I

ITEM	ESTIMATE	ASSUMPTIONS
<u>Acquisition</u>		
Purchase price	\$ -	
Appraisal fee	\$ 510.00	if required by Lender
Credit report fee	\$ -	
Flood certification fee	\$ 7.50	\$12-60
Pro-rated taxes	\$ -	depends on time of year/whether any are paid
Realtor Fee	\$ -	
Attorney fee/title search	\$ 950.00	
Title insurance	\$ 550.00	\$2 per \$1,000 value
Recording fee	\$ 70.00	\$20-80
Loan Document Processing	\$ -	
Loan Origination Fee	\$ 1,400.00	
Termite inspection	\$ -	
Other Inspections	\$ -	
Survey	\$ -	
Overnight mail fee	\$ -	
SUBTOTAL	\$ 3,487.50	
<u>Construction</u>		
Anticipated number of weeks	20	
Contracted Services	\$ 224,895.80	
Sitework	\$ 11,200.00	
Construction contingency	\$ 5,000.00	
AE - Systems Vision Assessment	\$ 1,200.00	
SUBTOTAL	\$ 242,295.80	
<u>Carrying costs</u>		
Utilities	\$ -	
Property insurance	\$ 500.00	Annual Builder's Risk Premium
Loan interest payments	\$ 1,500.00	
SUBTOTAL	\$ 2,000.00	
TOTAL BUILD COSTS	\$ 247,783	
NON-CHDO PROCEED FUNDS	\$ 72,783	
Pinnacle Loan	\$ 140,000.00	
City funds needed	\$ 35,000.00	

Community Housing Solutions - Acquisition/New/Resale Program
Development Budget

821 Hilltop Street - Austin III

ITEM	ESTIMATE	ASSUMPTIONS
<u>Acquisition</u>		
Purchase price	\$ -	
Appraisal fee	\$ 510.00	if required by Lender
Credit report fee	\$ -	
Flood certification fee	\$ 7.50	\$12-60
Pro-rated taxes	\$ -	depends on time of year/whether any are paid
Realtor Fee	\$ -	
Attorney fee/title search	\$ 950.00	
Title insurance	\$ 550.00	\$2 per \$1,000 value
Recording fee	\$ 70.00	\$20-80
Loan Document Processing	\$ -	
Loan Origination Fee	\$ 1,470.00	
Termite inspection	\$ -	
Other Inspections	\$ -	
Survey	\$ -	
Overnight mail fee	\$ -	
SUBTOTAL	\$ 3,557.50	
<u>Construction</u>		
Anticipated number of weeks	20	
Contracted Services	\$ 231,989.29	
Sitework	\$ 2,500.00	
Construction contingency	\$ 5,000.00	
AE - Systems Vision Assessment	\$ 1,200.00	
SUBTOTAL	\$ 240,689.29	
<u>Carrying costs</u>		
Utilities	\$ -	
Property insurance	\$ 500.00	Annual Builder's Risk Premium
Loan interest payments	\$ 1,500.00	
SUBTOTAL	\$ 2,000.00	
TOTAL BUILD COSTS	\$ 246,247	
NON-CHDO PROCEED FUNDS	\$ 64,247	
Pinnacle Loan	\$ 147,000.00	
City funds needed	\$ 35,000.00	

Community Housing Solutions - Acquisition/New/Resale Program
Development Budget

822 Hilltop Street - Dawson II

ITEM	ESTIMATE	ASSUMPTIONS
<u>Acquisition</u>		
Purchase price	\$ -	
Appraisal fee	\$ 510.00	if required by Lender
Credit report fee	\$ -	
Flood certification fee	\$ 7.50	\$12-60
Pro-rated taxes	\$ -	depends on time of year/whether any are paid
Realtor Fee	\$ -	
Attorney fee/title search	\$ 950.00	
Title insurance	\$ 550.00	\$2 per \$1,000 value
Recording fee	\$ 70.00	\$20-80
Loan Document Processing	\$ -	
Loan Origination Fee	\$ 1,400.00	
Termite inspection	\$ -	
Other Inspections	\$ -	
Survey	\$ -	
Overnight mail fee	\$ -	
SUBTOTAL	\$ 3,487.50	
<u>Construction</u>		
Anticipated number of weeks	20	
Contracted Services	\$ 228,234.80	
Sitework	\$ 7,300.00	
Construction contingency	\$ 5,000.00	
AE - Systems Vision Assessment	\$ 1,200.00	
SUBTOTAL	\$ 241,734.80	
<u>Carrying costs</u>		
Utilities	\$ -	
Property insurance	\$ 500.00	Annual Builder's Risk Premium
Loan interest payments	\$ 1,500.00	
SUBTOTAL	\$ 2,000.00	
TOTAL BUILD COSTS	\$ 247,222	
NON-CHDO PROCEED FUNDS	\$ 72,222	
Pinnacle Loan	\$ 140,000.00	
City funds needed	\$ 35,000.00	

CITY OF HIGH POINT

AGENDA ITEM



TITLE: Consideration of a Pressing Need Approval with McGill Environmental Systems of N.C., Inc.

FROM:
Allison Kraft
Water Resources Director

MEETING DATE:
May 28, 2026

PUBLIC HEARING:
No

ADVERTISED DATE/BY:
N/A

ATTACHMENTS:
1. Quote

PURPOSE: To approve the pressing need increase of PO #10-2025-11141 with McGill Environmental Systems of NC, Inc. ("McGill") to assist with the hauling and disposal of dewatered biosolids from the Eastside Wastewater Treatment Plant.

BACKGROUND: The incinerator at the Eastside WWTP was taken out of service in February due to poor performance. It was inspected; repairs and maintenance were performed and was subsequently put back into service. It continued to operate poorly and is burning significant amounts of diesel fuel, making it more expensive to operate than to send biosolids to McGill's composting facility. The incinerator has been taken out of service again to evaluate the heat exchanger, which appears to be the cause of the inability to efficiently burn the biosolids.

The Water Resources Department is requesting a pressing need approval to increase PO #10-2025-11141 with McGill to cover the hauling and disposal of the dewatered sludge for the remainder of this fiscal year. Water Resources is estimating a cost of \$227,336 per month based on McGill's pricing and the current sludge volumes at the wastewater plant. Accordingly, PO #10-2025-11141 must be increased from the current amount of \$167,240 to \$559,672 which will be an increase of \$392,432. A Request for Qualifications will be issued for hauling and composting during FY2027 while we evaluate the viability of long-term solutions.

BUDGET IMPACT: Funds available in FY 2025-2026 budget.

RECOMMENDED ACTION REQUESTED: City Council is requested to consider a pressing need purchase order (PO) increase from \$167,240 to \$559,672 with McGill Environmental Systems of N.C., Inc., for emergency hauling and disposal of dewatered biosolids from the Eastside Wastewater Treatment Plant, and authorize the appropriate City Official(s) to execute all necessary documents.

Account Information

Legal name: _____ DBA: _____
Acct #: _____ Website: _____
Billing address: _____
Primary contact: _____ Email: _____
(O): _____ (F): _____ (M): _____
A/P contact: _____ Email: _____ (O): _____

Ship to facility:

- ☐ **McGill-Delway**, 1100 Herring Rd, Rose Hill, NC 28458, Permit WQ0006816
☐ **McGill-Merry Oaks**, 634 Christian Chapel Church Rd, New Hill, NC 27562, Permit SWC-19-06
☐ **McGill-Waverly**, 5056 Beef Steak Rd, Waverly, VA 23890, Permit VDHUR154
☐ **Other:** _____

Proposal Information

Brief Description

Scope of Work

McGill Environmental Systems of NC, Inc. ("McGill") will furnish all labor, equipment, supervision and materials, unless otherwise specified, to perform the following:

Item	Material Code	Rate

Additional notes:

Transportation provider:

- ☐ McGill
☐ Customer
☐ Subcontractor:

Fuel Surcharge:

- ☐ Yes
☐ No

CPI Adjustment:

- ☐ Yes
☐ No

CITY OF HIGH POINT

AGENDA ITEM



TITLE: Consideration of Tax Collection Orders for the Forsyth County Tax Administration

FROM:
Bobby Fitzjohn
Financial Services Director

MEETING DATE:
May 28, 2026

PUBLIC HEARING:
No

ADVERTISED DATE/BY:
N/A

ATTACHMENTS:
1. Orders to Collect

PURPOSE: The Financial Services Department recommends that City Council authorize the order required by the Forsyth County Tax Department for the administration and collection of property taxes for City of High Point parcels located in Forsyth County during the 2027 fiscal year.

BACKGROUND: The City of High Point has taxable property in four counties – Guilford, Randolph, Davidson, and Forsyth. The Forsyth County Tax Collector's Office requires an annual affirmation of their authority initially approved by City Council in 2012 to administer and collect High Point's taxes within Forsyth County.

BUDGET IMPACT: The proposed Annual Budget for FY 2026-2027 includes the tax collection and administration costs for all four counties. The attached affirmation of authority to collect does not increase the cost of collection.

RECOMMENDED ACTION REQUESTED: City Council is requested to authorize the appropriate City Official(s) to execute the attached orders for the collection of 2026 taxes by the Forsyth County Tax Administration office for areas of High Point located in Forsyth County.

NORTH CAROLINA

FORSYTH COUNTY

ORDER OF THE COUNCIL OF THE CITY OF HIGH POINT
IN ACCORDANCE WITH NCGS § 105-321, NCGS § 153A-156 AND NCGS § 160A-215.2
FOR THE COLLECTION OF 2026 TAXES

TO: AMANDA MARKLE, AAS
TAX COLLECTOR OF FORSYTH COUNTY, CITY OF WINSTON-SALEM, VILLAGE OF CLEMMONS,
VILLAGE OF TOBACCOVILLE, TOWN OF LEWISVILLE,
TOWN OF RURAL HALL, TOWN OF WALKERTOWN, CITY OF KING,
TOWN OF KERNERSVILLE, TOWN OF BETHANIA, CITY OF HIGH POINT

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the 2026 tax records filed in the Office of the Forsyth County Tax Collector, and in the tax receipts herewith delivered to you in the amounts and from the taxpayers likewise therein set forth. You are further authorized, empowered, and commanded to collect the 2026 taxes charged and assessed as provided by law for adjustments, changes, and additions to the tax records and tax receipts delivered to you which are made in accordance with law. Such taxes are hereby declared to be a first lien on all real property of the respective taxpayers in Forsyth County, City of Winston-Salem, Town of Rural Hall, Town of Walkertown, Village of Clemmons, Village of Tobacconville, Town of Bethania, Town of Lewisville, City of King, Town of Kernersville, City of High Point, Beeson's Cross Roads Fire Protection District, Beeson's Cross Roads Service District, Belews Creek Fire and Rescue Protection District, City View Fire Protection District, Clemmons Fire and Rescue Protection District, Forest Hill Fire and Rescue Protection District, Griffith Fire Protection District, Gumtree Fire and Rescue Protection District, Horneytown Fire and Rescue Protection District, King of Forsyth County Fire and Rescue Protection District, Lewisville Fire and Rescue Protection District, Mineral Springs Fire Protection District, Mineral Springs Service District, Mount Tabor Fire and Rescue Protection District, Old Richmond Fire and Rescue Protection District, Piney Grove Fire Protection District, Suburban Fire and Rescue Protection District, Salem Chapel Fire and Rescue Protection District, South Fork Fire Protection District, Talley's Crossing Fire and Rescue Protection District, Triangle Fire Protection District, Union Cross Fire and Rescue Protection District, Vienna Fire Protection District, Walkertown (NE) Fire and Rescue Protection District, West Bend Service District, Downtown Winston-Salem Business Improvement District, Lewisville Municipal Service District, and Countywide Service District, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell, any real or personal property, and attach wages and/or other funds, of such taxpayers, for and on account thereof, in accordance with law. You are hereby authorized and directed to use any method of collections authorized by law to collect such taxes including, without limitation, the in-rem method of foreclosure authorized by NCGS § 105-375, the mortgage style of foreclosure authorized by NCGS § 105-374.

You are also hereby authorized, empowered and commanded to administer and to collect taxes on gross receipts derived from retail short-term leases or rentals of motor vehicles as set forth under NCGS § 153A-156 and gross receipts derived from short-term lease or rental of heavy equipment as set forth under NCGS § 160A-215.2. You are hereby authorized to promulgate such rules and procedures necessary to administer these taxes which are not inconsistent or contrary to applicable law.

You are also hereby authorized, to the full extent permitted by law, to collect liens that attach to real property under NCGS chapters 160D, 160A, or 153A, including but not limited to those that arise by reason of removal of a structure to the extent authorized by state and local law, and sanitation liens that arise under § 160A-193 or 153A-140.

Within available funds in the budget ordinance and personnel positions established, the Tax Collector may appoint employees and authorize them to perform those functions authorized by the Machinery Act of Chapter 105 of the North Carolina General Statutes and other applicable laws for current and previous years' taxes. County personnel presently in the Tax Collector's office continue to serve in their respective positions at the discretion of the Tax Collector.

WITNESS my hand and official seal, this the _____ day of _____, 2026.

MAYOR, CITY OF HIGH POINT

ATTEST:

CLERK

NORTH CAROLINA

FORSYTH COUNTY

ORDER OF THE COUNCIL OF THE CITY OF HIGH POINT
IN ACCORDANCE WITH NCGS § 105-373, NCGS § 105-321, NCGS § 105-330.3 and NCGS § 153A-156
FOR THE COLLECTION OF 2025 AND PRIOR YEARS' TAXES

TO: AMANDA MARKLE, AAS
TAX COLLECTOR OF FORSYTH COUNTY, CITY OF WINSTON-SALEM, VILLAGE OF CLEMMONS, VILLAGE OF TOBACCOVILLE, TOWN OF LEWISVILLE, TOWN OF RURAL HALL, TOWN OF WALKERTOWN, CITY OF KING, TOWN OF KERNERSVILLE, TOWN OF BETHANIA, CITY OF HIGH POINT

You are hereby authorized, empowered, and commanded to collect the taxes remaining unpaid as set forth in the 2017 through 2025 tax records filed in the Office of the Forsyth County Tax Collector, and in the tax receipts herewith delivered to you in the amounts and from the taxpayers likewise therein set forth. You are further authorized, empowered, and commanded to collect the 2017 through 2025 taxes charged and assessed as provided by law for adjustments, changes, and additions to the tax records and tax receipts delivered to you which are made in accordance with law. Such taxes are hereby declared to be a first lien on all real property of the respective taxpayers in Forsyth County, City of Winston-Salem, Town of Rural Hall, Town of Walkertown, Village of Clemmons, Village of Tobacconville, Town of Bethania, Town of Lewisville, City of King, Town of Kernersville, City of High Point, Beeson's Cross Roads Fire Protection District, Beeson's Cross Roads Service District, Beleys Creek Fire and Rescue Protection District, City View Fire Protection District, Clemmons Fire and Rescue Protection District, Forest Hill Fire and Rescue Protection District, Griffith Fire Protection District, Gumtree Fire and Rescue Protection District, Horneytown Fire and Rescue Protection District, King of Forsyth County Fire and Rescue Protection District, Lewisville Fire and Rescue Protection District, Mineral Springs Fire Protection District, Mineral Springs Service District, Mount Tabor Fire and Rescue Protection District, Old Richmond Fire and Rescue Protection District, Piney Grove Fire Protection District, Suburban Fire and Rescue Protection District, Salem Chapel Fire and Rescue Protection District, South Fork Fire Protection District, Talley's Crossing Fire and Rescue Protection District, Triangle Fire Protection District, Union Cross Fire and Rescue Protection District, Vienna Fire Protection District, Walkertown (NE) Fire and Rescue Protection District, West Bend Service District, Downtown Winston-Salem Business Improvement District, Lewisville Municipal Service District, and Countywide Service District, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell, any real or personal property, and attach wages and/or other funds, of such taxpayers, for and on account thereof, in accordance with law.

Within available funds in the budget ordinance and personnel positions established, the Tax Collector may appoint employees and authorize them to perform those functions authorized by the Machinery Act of Chapter 105 of the North Carolina General Statutes and other applicable laws for current and previous years' taxes. County personnel presently in the Tax Collector's office continue to serve in their respective positions in the discretion of the Tax Collector.

Taxes on registered classified Motor Vehicles for 2022 and prior years are deemed uncollectible; therefore, the Forsyth County Commissioners, pursuant to NCGS §105-373(h) do hereby relieve the tax collector of the charge of collecting taxes on registered classified motor vehicles listed pursuant to NCGS § 05-330.3(a)(1) for 2022 and prior years.

WITNESS my hand and official seal, this the _____ day of _____, 2026.

MAYOR, CITY OF HIGH POINT

ATTEST:

CLERK