



# TOWN OF ASHLAND CITY

## Special Called City Council Meeting

### October 23, 2023, 6:00 PM

## Agenda

**Mayor:** JT Smith

**Council Members:** Tim Adkins, Gerald Greer, Chris Kerrigan, Michael Smith, Kevin Thompson, Tony Young

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### CALL TO ORDER

### ROLL CALL

### PLEDGE AND PRAYER

### APPROVAL OF AGENDA

### APPROVAL OF MINUTES

- [1.](#) September 12, 2023, Council Meeting Minutes

### PUBLIC FORUM

#### 2. *Procedure for Speaking Before the Council*

- \* Speakers must complete the information form and submit it to the transcriber prior to the public forum. Be prepared to speak when your name is called.
- \* Each speaker will be allowed 4 minutes.
- \* Speakers may comment on issues scheduled for consideration at the meeting or other appropriate concerns pertinent to the operation of the town.
- \* Each speaker should state the following:
  - his/her name
  - whether they are an Ashland City resident and/or property owner
- \* No person shall be allowed to make obscene, derogatory, or slanderous remarks while addressing the Council/Board. Persons doing so will be asked to stop speaking and will forfeit the remainder of their time.
- \* All remarks shall be directed to the Council/Board as a body only.
- \* No person shall be allowed to disrupt or interfere with the procedures.
- \* Remarks shall end when the speaker's allotted time has expired. No time shall be shared with other speakers.
- \* Questions from the council/board members may be asked for clarification as well as council/board members may have brief comments; however, no person shall be permitted to enter any discussion or debate either directly with or through any member of the Council/Board or anyone present at the meeting.
- \* No one shall make open comments during the meeting.

### REPORTS

3. City Attorney

### UNFINISHED BUSINESS

- [4.](#) Ordinance: AMEND TITLE 8, CHAPTER 2: BEER
- [5.](#) Ordinance: Budget Amendment #2 - Drug Fund
- [6.](#) Mistletoe Trail

## **NEW BUSINESS**

- [7.](#) Resolution: Update Wage and Salary Policy - Pay Table
- [8.](#) The Calendar Guys, LLC Agreement
- [9.](#) Solomon Builders Retainage Agreement - City Hall
- [10.](#) TCAD Senior Center Competitive Grants Contract
- [11.](#) Resolution: Ingram Barge Port Discussion
- [12.](#) City Admin Job Description
- [13.](#) Solomon Builders Contract

## **SURPLUS PROPERTY NOMINATIONS**

- [14.](#) Fire: 10 Metal Lockers
- [15.](#) 15 rolling office chairs - Senior

## **EXPENDITURE REQUESTS**

### **OTHER**

- 16. City Recorder Interviews

## **ADJOURNMENT**

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*Those with disabilities who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting, should contact the ADA Coordinator at 615-792-6455, M-F 8:00 AM – 4:00 PM. The town will make reasonable accommodations for those persons.*



**TOWN OF ASHLAND CITY**  
**Regularly Scheduled City Council Meeting**  
**September 12, 2023, 6:00 PM**  
**Minutes**

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**CALL TO ORDER**

Mayor Smith called the meeting to order at 6:02 p.m.

**ROLL CALL**

PRESENT

Mayor JT Smith

Vice Mayor Gerald Greer

Councilman Tim Adkins

Councilman Chris Kerrigan

Councilman Michael Smith

Councilman Kevin Thompson

Councilman Tony Young

**PLEDGE AND PRAYER**

Councilman Adkins led the Pledge of Allegiance of the United States of America and the prayer.

**APPROVAL OF AGENDA**

A motion was made by Vice Mayor Greer, Seconded by Councilman Thompson, to approve the agenda with changes. All approved by voice vote.

**APPROVAL OF MINUTES**

1. August 8, 2023, City Council Meeting Minutes

A motion was made by Councilman Thompson, Seconded by Councilman Kerrigan, to approve the August 8, 2023, City Council Meeting Minutes. All approved by voice vote.

**PUBLIC FORUM**

Amanda Bell invited everyone to the Imagination Library party. All proceeds go to the Imagination Library.

Travis Yates from Louisville, KY; spoke about the BrookHollow project for senior living.

Josh Hooper from Louisville, KY; spoke on the financial need for the BrookHollow project.

**REPORTS**

2. Attorney

Emailed council about the one suit has been dismissed.

**OLD BUSINESS**

3. Ordinance: City Administrator Job Description

AN ORDINANCE TO AMEND TITLE 1 OF THE ASHLAND CITY MUNICIPAL CODE BY ADDING CHAPTER 5 CREATING THE POSITION OF CITY ADMINISTRATOR A motion was made by Vice Mayor Greer, Seconded by Councilman Kerrigan to approve ordinance without changes. Voting Yea: Vice Mayor Greer, Councilman Kerrigan, Councilman Adkins, and Councilman Young Voting Nea: Councilman Thompson, Councilman Smith, and Mayor Smith.

4. Facebook Page: Parks Board

This will be added to item number 7.

5. Beautification Project: Amanda Bell

Leslie Wakefield spoke about the next steps in the beautification project. A motion was made by Councilman Kerrigan, Seconded by Vice Mayor Greer to have the Public Works look at the trees, measure and make recommendations as to which ones need to be removed by next workshop meeting. Voting Yea: Councilman Kerrigan, Vice Mayor Greer, Councilman Thompson, Councilman Smith, Councilman Adkins, Councilman Young, and Mayor Smith.

## NEW BUSINESS

6. Ordinance: AMEND TITLE 8, CHAPTER 2: BEER

AN ORDINANCE BY THE TOWN OF ASHLAND CITY, TENNESSEE TO AMEND TITLE 8, CHAPTER 2: BEER Ms. Noe discussed the definition changes from the state. A motion was made by Councilman Kerrigan, Seconded by Councilman Young to approve this ordinance. Voting Yea: Councilman Kerrigan, Councilman Young, Vice Mayor Greer, Councilman Thompson, Councilman Smith, Councilman Adkins, and Mayor Smith.

7. Seasonal Employee: Event Planning Coordinator Job Description Discussion

Ms. Bowman discussed the need to change the Farmers Market Manager to Event Planning coordinator. A motion was made by Councilman Thompson, Seconded by Councilman Smith to approve the position title change and total hours increase. Voting Yea: Councilman Thompson, Councilman Smith, Councilman Kerrigan, Councilman Young, Vice Mayor Greer, and Mayor Smith. Voting Nea: Councilman Adkins.

8. Resolution: Update Pay Table - Seasonal Employee

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ASHLAND CITY UPDATING THE WAGE AND SALARY POLICY: PAYTABLE GOVERNING EMPLOYMENT WITH THE TOWN OF ASHLAND CITY Ms. Bowman discussed the changes to the pay time position titles. A motion was made by Councilman Thompson, Seconded by Councilman Smith, to approve the resolution. Voting Yea: Councilman Thompson, Councilman Smith, Councilman Kerrigan, Vice Mayor Greer, Councilman Young, and Mayor Smith. Voting Nea: Councilman Adkins,

9. Resolution: BlueCross Healthy Place Project Grant

A RESOLUTION OF THE TOWN OF ASHLAND CITY, TENNESSEE TO PARTICIPATE IN BLUECROSS HEALTHY PLACE PROJECTS GRANT FUNDING PROGRAM A motion was made by Vice Mayor Greer, Seconded by Councilman Thompson, to approve the resolution. Voting Yea: Vice Mayor Greer, Councilman Thompson, Councilman Kerrigan, Councilman Smith, Councilman Adkins, Councilman Young, and Mayor Smith.

10. Cheatham County Public Library Agreement

Ms. Bowman discussed the yearly agreement with the county. A motion was made by Councilman Young, Seconded by Councilman Thompson, to approve the agreement. Voting Yea: Councilman Young, Councilman Thompson, Councilman Smith, Vice Mayor Greer, Councilman Kerrigan, Councilman Adkins, and Mayor Smith

11. Stratus Agreement: Senior Center

Ms. Batts discussed the agreement. A motion was made by Councilman Thompson, Seconded by Vice Mayor Greer, to approve the agreement. Voting Yea: Councilman Thompson, Vice Mayor Greer, Councilman Smith, Councilman Young, Councilman Kerrigan, Councilman Adkins, and Mayor Smith

12. Flood Emergency Response Plan: Wastewater Treatment Plant

A RESOLUTION OF THE TOWN OF ASHLAND CITY, TENNESSEE, TO ADOPT A FLOOD EMERGENCY RESPONSE PLAN. Ms. Noe discussed the plan. A motion was made by Councilman Young, Seconded by Councilman Kerrigan, to defer the agreement. Voting Yea: Councilman Young, Councilman Kerrigan, Councilman Smith, Councilman Thompson, Vice Mayor Greer, Councilman Adkins, and Mayor Smith

3. Cheatham County Central High School Homecoming Bon-Fire Donation

A motion was made by Councilman Thompson, Seconded by Councilman Kerrigan, to approve the donation. Voting Yea: Councilman Thompson, Councilman Kerrigan, Councilman Smith, Councilman Young, Vice Mayor Greer, Councilman Adkins, and Mayor Smith

14. Banner Discussion

Mayor and council discussed options of how to advertise events and where to post signs. Mr. Nicholson reminded the council of the banner rules. A motion was made by Councilman Smith, Seconded by Councilman Thompson, to defer a decision. Voting Yea: Councilman Smith, Councilman Thompson, Councilman Kerrigan, Councilman Young, Vice Mayor Greer, Councilman Adkins, and Mayor Smith

15. Kiwanis Literacy Program "Story Book Trail" Discussion

A motion was made by Councilman Kerrigan, Seconded by Vice Mayor Greer, to approve the program. Voting Yea: Councilman Kerrigan, Vice Mayor Greer, Councilman Smith, Councilman Young, Councilman Thompson, Councilman Adkins, and Mayor Smith

16. Ordinance: Budget Amendment #2 - Drug Fund

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL TO ACCEPT A BUDGET AMENDMENT FOR THE 21/22 FISCAL YEAR A motion was made by Councilman Thompson, Seconded by Vice Mayor Greer, to approve the ordinance. Voting Yea: Councilman Thompson, Vice Mayor Greer, Councilman Adkins, Councilman Kerrigan, Councilman Smith, Councilman Young, and Mayor Smith

17. Resolution: Beacon Properties Discussion - Tax Abatement

A RESOLUTION OF THE TOWN OF ASHLAND CITY, TENNESSEE TO VOICE THEIR OPPOSITION OF THE PROPOSED PILOT PROGRAM AND TAX ABATEMENT FOR BROOKHOLLOW SENIOR APARTMENTS, LP Ms. Noe discussed the resolution details. A motion was made by Councilman Kerrigan, Seconded by Vice Mayor Greer, to approve the resolution. Voting Yea: Councilman Kerrigan, Vice Mayor Greer, Councilman Thompson, Councilman Smith, Councilman Adkins, and Councilman Young. Voting Nea: Mayor Smith.

18. Resolution: Livestream Meetings

A RESOLUTION OF THE TOWN OF ASHLAND CITY, TENNESSEE TO LIVE STREAM MEETINGS. A motion was made by Councilman Young, Seconded by Councilman Kerrigan, to approve the resolution. Voting Yea: Councilman Young, Councilman Kerrigan, Vice Mayor Greer, Councilman Thompson, Councilman Smith, Councilman Adkins, and Mayor Smith.

19. Stratus Agreement: Fire Station 1

A motion was made by Councilman Thompson, Seconded by Councilman Smith, to approve the agreement. Voting Yea: Councilman Thompson, Councilman Smith, Councilman Young, Vice Mayor Greer, Councilman Kerrigan, Councilman Adkins, and Mayor Smith

20. US Geological Survey Agreement

A motion was made by Councilman Thompson, Seconded by Councilman Smith, to approve the agreement. Voting Yea: Councilman Thompson, Councilman Smith, Councilman Young, Vice Mayor Greer, Councilman Kerrigan, Councilman Adkins, and Mayor Smith

## **SURPLUS PROPERTY NOMINATIONS**

21. 1995 Chevy S-10 - Public Works

A motion was made by Councilman Thompson, Seconded by Councilman Kerrigan, to surplus this item. Voting Yea: Councilman Thompson, Councilman Kerrigan, Councilman Smith, Vice Mayor Greer, Councilman Adkins, Councilman Young, and Mayor Smith.

## **EXPENDITURE REQUESTS**

22. Request to Bid Paving 2023 – 2024

A motion was made by Councilman Kerrigan, Seconded by Councilman Smith, to approve request to bid. Voting Yea: Councilman Kerrigan, Councilman Smith, Councilman Thompson, Vice Mayor Greer, Councilman Adkins, Councilman Young, and Mayor Smith.

23. Paving Back Parking Lot at 233 TN Waltz Parkway

A motion was made by Councilman Thompson, Seconded by Councilman Young, to approve request to bid. Voting Yea: Councilman Thompson, Councilman Young, Councilman Smith, Councilman Kerrigan, Vice Mayor Greer, Councilman Adkins, and Mayor Smith.

**OTHER**

24. Christmas Parade

Ms. Black announced the winning parade theme. The public voted most for “Christmas Around the World.”

25. City Recorder Position

Ms. Black stated the candidates selected for interview on September 19, 2023, are no longer interested in the position. There have been two applications with resumes submitted. A motion was made by Councilman Kerrigan, Seconded by Councilman Thompson, to cancel special called meeting and interview the others at the end of the next workshop meeting. Voting Yea: Councilman Kerrigan, Councilman Thompson, Councilman Young, Councilman Smith, Vice Mayor Greer, Councilman Adkins, and Mayor Smith.

**ADJOURNMENT**

A motion was made by Councilman Kerrigan, Seconded by Vice Mayor Greer, to adjourn the meeting. All approved by voice vote and the meeting adjourned at 7:05 p.m.

\_\_\_\_\_  
MAYOR JT SMITH

\_\_\_\_\_  
INTERIM CITY RECORDER

**ORDINANCE #**

**AN ORDINANCE BY THE TOWN OF ASHLAND CITY, TENNESSEE TO  
AMEND TITLE 8, CHAPTER 2: BEER**

**WHEREAS**, the state law TCA 57-5-101(b) has been amended by the state legislature that changes the definition of beer.

**WHEREAS**, the new definition of beer in state law contradicts Title 8 Chapter 2 of the Municipal Code and needs to be amended to be in compliance .

**NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF ASHLAND CITY, TENNESSEE**, that Title 8, Chapter 2, Section 8-202 (1) be deleted in it's entirety and replaced as follows:

8-202 (1) "Beer" as used in this chapter shall mean products made from the normal alcoholic fermentation of malt or other cereal grains, sugar, or fruit ingredients used to make cider, and having an alcoholic content of not more than eight percent (8%) alcohol by weight and that do not contain distilled spirits or wine as defined in TCA 57-3-101; provided, that at least fifty-one percent (51%) of the overall alcoholic content by weight in the finished product is obtained by the fermentation of malt, other cereal grains, sugar, or fruit ingredients used to make cider, and no more than forty-nine percent (49%) of the overall alcoholic content by weight in the finished product is obtained by the addition of flavorings or other non-beverage ingredients containing alcohol.

**BE IT FURTHER ORDAINED**, this Ordinance shall be effective twenty (20) days after the final passage, to the public welfare requiring it.

1st reading  
2nd reading

Attest:

\_\_\_\_\_  
Mayor JT Smith

\_\_\_\_\_  
City Recorder

**ORDINANCE #**

**AN ORDINANCE BY THE MAYOR AND CITY COUNCIL TO ACCEPT A BUDGET AMENDMENT FOR THE 23/24 FISCAL YEAR**

**WHEREAS**, Police Chief will purchase Mobilize Rescue Systems for each police vehicle; and,

**WHEREAS**, the Town of Ashland City Mayor and Council wish to appropriate the funds for

**NOW THEREFORE, BE IT ORDAINED**, by the Council of the Town of Ashland City, Tennessee, that this ordinance shall become effective 20 days after final passage the public welfare requiring.

Section 1. A budget amendment consisting of the available funds and appropriations be adopted for the General Fund:

<i>Drug Fund</i>	<u>Beginning Departmental Budget</u>	<u>Ending Departmental Budget</u>
Drug Fund	\$1,00	\$4,520

1<sup>st</sup> reading \_\_\_\_\_

Public Hearing \_\_\_\_\_

2<sup>nd</sup> reading \_\_\_\_\_

Attest:

\_\_\_\_\_  
Mayor JT Smith

\_\_\_\_\_  
Interim City Recorder





Master Medical Equipment  
 PO Box 11476  
 Jackson, TN 38308  
 US  
 866-468-9558

## QUOTATION

Order Number	
1053830	
Order Date	Page
08/24/2023 13:55:42	1 of 1

Quote Expires On: 09/23/2023

**Bill To:**

Town of Ashland City  
 101 Court Street  
 PO Box 36  
 Ashland City, TN 37015

6157925618

**Ship To:**

Town of Ashland City  
 233 Tennessee Waltz Pkwy  
 Ashland City, TN 37015

**Customer ID:** 40543

Requested By: Kenny Ray

<i>PO Number</i>	<i>Ship Route</i>	<i>Account Manager</i>	<i>Sales Representative</i>
		TRENT.HARRIS	Trent Harris

<i>Quantities</i>		<i>Item ID</i> <i>Item Description</i>	<i>Pricing</i> <i>UOM</i>	<i>Unit Price</i>	<i>Extended Price</i>
<i>Ordered</i>	<i>UOM</i>				
16	EA	ZOL8911-003000-01 MOBILIZE RESCUE SYSTEMS, COMPACT	EA	220.0000	3,520.00

**Delivery Instructions:**

Total Lines: 1

**SUB-TOTAL:** 3,520.00  
**TAX:** 0.00  
**AMOUNT DUE:** **3,520.00**  
*U.S. Dollars*

If you are eligible for exemption from sales tax, please share your sales tax exemption documents with MME before you finalize your order. Otherwise, applicable sales tax will be added to the invoice.

Please note that all returns and refunds are subject to MME's return and refund policy which may be found at <https://www.mmemed.com/returns-reunds/>



## EXHIBIT II

### Town of Ashland City Pay Table

Pay Grade	Job Title		Pay Range		
			Starting Salary	Midpoint	Highest Salary
11	City Administrator		\$95,000	\$107,500	\$120,000
10	Public Utilities/Public Works Director		\$77,280	\$90,919	\$117,058
9	Police Chief	Fire Chief	\$69,156	\$81,359	\$100,560
	Financial Director				
8	Deputy Fire Chief	Court Clerk	\$61,884	\$72,805	\$93,737
	Assistant Police Chief	Parks Director			
	Building & Codes Director	Senior Center Director			
	Public Utilities/Public Works Assistant Director				
7	Fire Marshal	Water/Wastewater Plant Chief Operator	\$55,377	\$65,150	\$83,881
	Police Detective	Fire Department Captain			
	Building Inspector				
6	Building Codes Officer	Executive Assistant	\$49,554	\$58,301	\$72,059
	IT Specialist	City Recorder			
	Utility/Street Maintenance Supervisor	Human Resource Specialist			
	Water/Wastewater Plant Operator III	Police Sergeant			
	Firefighter II/Acting Fire Inspector				
5	Accounting Clerk II	Police Corporal	\$44,346	\$52,170	\$64,482
	Mechanic II	Firefighter II			
	Water/Wastewater Plant Operator II	Police Officer (Certified)			
4	Administrative Assistant (Fire)	Administrative Assistant (Police)	\$39,681	\$46,686	\$57,703
	Senior Equipment Operator	Park Maintenance			
	Mechanic I	Assistant Senior Center Director			
	Water Distribution/Waste Water Collection Specialist	Accounting Clerk I			
	Firefighter I	Police Officer (No Cert)			
	Administrative Assistant (Codes & Tech)	Cross Connection Coordinator			
3	Water/Wastewater Distribution/Collections Assistant	Deputy Court Clerk I	\$35,509	\$41,776	\$51,636
	Water/Wastewater Plant Operator I (no license)	Police Clerk			
	Senior Center Program Coordinator	Streets Maintenance Assistant			
2	Senior Center Activities Coordinator	Staff Assistant	\$31,777	\$37,383	\$46,206
	Judicial Commissioner	Reserve Officer			
	Part-time Firefighter				
1	Janitor		\$25,446	\$29,935	\$37,000
0	Reserve Officer	Event Planning Coordinator			

\* Pay rate for pay grade's 1 & 2 are based on full-time employment.

# THE CALENDAR GUYS, LLC

PRINTING & GRAPHICS

WE SET UP \* WE CALL \* WE COLLECT \* WE SHIP \* WE DELIVER \* WE PAY

Effective Sept 2023 The Calendar Guys LLC agrees to produce the 2024 / 2025 (Standard    Mid-year    Special   ) Calendar Projects for the Ashland City TN Police Department. The entire calendar will be in full color. The Calendar Guys LLC will be responsible for the following: contacting businesses, collecting artwork and payment, printing of calendars and the distribution of the calendars to sponsors and the Department.

The Calendar Guys LLC agrees to donate a guaranteed amount of 800.00 /yr to the Ashland City Police Department as their part of the proceeds from the sponsors' participation. This amount will be given at the completion of each year's Calendar Project. The minimum guaranteed proceeds amount will be 1600.00 for the total of the 2-year agreement. The Calendar Guys LLC will provide a list of all workers who will be contacting businesses in any fashion. The Ashland City Police Department agrees to reassure anyone who calls the department regarding the Calendar Project that The Calendar Guys LLC are working with the Ashland City Department by helping them with the project until its completion. The Ashland City Police Department will notify all staff, dispatch and social media coordinator of the project. The Ashland City Police Department is aware that there may be multiple versions of the calendar depending on the amount of businesses that choose to participate. It is also agreed that the Department will submit all calendar header photos such as personnel, equipment photos, special event photos, and graphics along with final instructions within 45 Days of expected delivery dates.

Department Representative \_\_\_\_\_

Conf. Bonus   /  /  /  

(A) \_\_\_\_\_ Title \_\_\_\_\_

Cell # \_\_\_\_\_

Email: \_\_\_\_\_

Proceeds will be used for:

Shop w/ A. Cop

The Calendar Guys LLC

Johnny Crittenden

Title President

Johnny Crittenden (865) 405-8930

The Calendar Guys, LLC \* PO Box 70301 Knoxville TN 37938 \* 865-405-8930  
www.thecalendarguys.com

## RETAINAGE ESCROW AGREEMENT

THIS RETAINAGE ESCROW AGREEMENT (the "Agreement"), made and entered into this 15<sup>th</sup> day of September, 2023, by and among The Town of Ashland City, The Honorable J.T. Smith, Mayor ("Owner"), and Solomon Builders, Inc. ("Construction Contractor"), and PINNACLE BANK ("Escrow Agent"), a Tennessee state-chartered bank, with offices located at 150 Third Avenue South, Suite 900, Nashville, TN 37201.

### WITNESSETH:

WHEREAS, the Owner and Construction Contractor have heretofore entered into a construction contract dated the 15<sup>th</sup> day of September 2023, (the "Contract") whereby the Construction Contractor will make improvements to certain real property of the Owner pursuant to a certain project known as A New City Hall for The Town of Ashland City ("the Project") with such Contract providing that the Owner is to retain a percentage of all trade contractor payment requests made by the Construction Contractor (the "retainage") all as more specifically set forth in such Contract to which specific reference is hereby made;

WHEREAS, T.C.A. § 66-34-104 requires that the retainage be placed in a separate, interest bearing escrow account and that the funds therein shall be, at the time of deposit, the sole and separate property of the trade contractor from whom the retainage is owed;

WHEREAS, Escrow Agent has agreed to act as escrow agent to receive and hold the retainage paid to it until the receipt of a release by the Owner.

NOW THEREFORE, in consideration of the foregoing premises and the mutual covenants and promised hereinafter set forth, the parties hereto agree as follows:

(1) Construction Contractor agrees to establish a separate interest-bearing escrow account with the Escrow Agent and the Owner further agrees to pay all retainage held pursuant to the Contract to the Escrow Agent for deposit in the escrow account.

(2) Said interest-bearing escrow account shall be owned by Construction Contractor and the trade contractors, to whom the retainage is owed.

(3) Upon the satisfactory completion of the Project, or a portion thereof, as evidenced by a written Release, substantially in the form attached hereto as Exhibit A, executed by the Owner and provided to the Escrow Agent, all, or a portion of, the retainage together with interest earned thereon, shall be paid to the Construction Contractor for payment to the trade contractors from whom the retainage was withheld.

(4) Should a dispute arise as between the Owner and Construction Contractor such that the Owner fails to execute and deliver a Release to the Escrow Agent, or in the event that the Owner and the Construction Contractor become involved in litigation over the funds held by the Escrow Agent in escrow,

the Escrow Agent agrees to hold the money and pay the retainage to neither the Owner nor the Construction Contractor until a final order of a court of record in Tennessee so directs the Escrow Agent to whom to pay said funds, or the Escrow Agent is presented with a written agreement between the Owner and Construction Contractor as to how much of the retained funds should be paid to whom. In the event that the parties mutually agree in writing to close the Escrow Account and direct the Escrow Agent as to where the retainage should be sent, the Escrow Agent shall follow such instruction and be released of any further obligation under this Agreement. In the event that litigation ensues between Owner and Construction Contractor, Escrow Agent shall tender into the registry or custody of any court of competent jurisdiction in Davidson County, Tennessee all assets or property held by Escrow Agent pursuant to the terms of this Agreement, together with such pleadings as it deems appropriate, and thereupon be discharged from all further duties and liabilities under this Agreement. EACH PARTY HEREBY EXPRESSLY WAIVES THEIR RIGHT TO A TRIAL BY JURY OF ANY CLAIM ARISING UNDER OR RELATED TO THIS AGREEMENT, WHETHER NOW EXISTING OR HEREAFTER ARISING. Any expenses incurred by Escrow Agent, including but not limited to Escrow Agent's reasonable attorney's fees associated with any litigation, shall immediately upon the Escrow Agent's demand be reimbursed to the Escrow Agent by the Owner and Construction Contractor, each of whom shall be jointly and severally liable for the expenses. Further, Escrow Agent may resign as escrow agent at any time, whereupon Escrow Agent shall transfer the retainage funds to another financial institution selected by the Owner and Construction Contractor.

(5) In the event that a dispute arises as provided in 4. herein, the Escrow Agent shall bear no responsibility to the Construction Contractor or any trade contractor for the nonpayment of the funds to the Construction Contractor for payment to one or more trade contractors.

(6) For an in consideration of the use of the money in the escrow account, the Escrow Agent agrees to hold said funds in an interest-bearing escrow account and to pay over the funds in said escrow account to the appropriate party according to the directions stated herein.

(7) The Escrow Agent may not assign or transfer its responsibility as escrow agent hereunder to another escrow agent without first obtaining the written consent of the Owner and the Construction Contractor.

(8) Owner and Construction Contractor hereto agree to indemnify and hold Escrow Agent harmless from any loss, damages, or liabilities of any kind whatsoever, whether foreseen or unforeseen, whether direct or indirect arising out of or in connection with this Agreement, the retainage, the escrow account, and the funds contained therein, or the performance of the Escrow Agent's obligations hereunder, as allowed by law, except liability resulting from Escrow Agent's gross negligence or willful misconduct. Escrow Agent may rely upon the signatures on any correspondence from either or both of Owner and/or Construction Contractor as being the authentic signatures of the Owner or Construction Contractor or, if the Owner or Construction Contractor are not natural persons, of persons duly authorized to act on behalf of the Owner or Construction Contractor.

(9) This Agreement supplements, rather than replaces, Escrow Agent’s deposit account agreement, terms and conditions, and other standard documentation in effect from time to time with respect to the escrow account, as these may be updated or amended by Escrow Agent from time to time in connection therewith (the “Account Documentation”). The Account Documentation will continue to apply to the escrow account and such services, and the respective rights, powers, duties, obligations, liabilities and responsibilities of the parties thereto and hereto, to the extent not expressly conflicting with the provisions of this Agreement (however, in the event of any such conflict, the provisions of this Agreement shall control). Escrow Agent shall have no obligation to specifically notify any other parties hereto of any changes to the Account Documentation, including, without limitation, any changes to Escrow Agent’s schedule of fees and charges, each of the parties hereto agrees shall have been deemed received to the extent such changed documentation is made available on Escrow Agent’s website.

(10) Escrow Agent shall not be bound by any modification, amendment, termination, cancellation, rescission or supersession of this Agreement unless the same shall be in writing and signed by all of the other parties hereto and hereunder are effected thereby, unless it shall have given prior written consent thereto. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. Handwritten signatures to this Agreement transmitted by facsimile, email or other similar electronic transmission (for example, through the use of a Portable Document Format or “PDF file) shall be valid and effective to bind the party so signing.

OWNER: The Town of Ashland City, The Honorable J.T. Smith, Mayor

BY: \_\_\_\_\_

Name and Title:

Construction Contractor: Solomon Builders, Inc.

BY: \_\_\_\_\_

Name and Title:

Escrow Agent: Pinnacle Bank

BY: \_\_\_\_\_

Name and Title: \_\_\_\_\_, SVP

**EXHIBIT A**

**RELEASE**

The undersigned, as owner of certain real property located in \_\_\_\_\_, \_\_\_\_\_ County, Tennessee which has been improved pursuant to a construction contract with \_\_\_\_\_, (hereinafter "Contractor"), hereby notifies Pinnacle Bank that Contractor has represented to the undersigned that Contractor has either reached final completion or has substantially completed with regards to the \_\_\_\_\_, pursuant to such contract. Based on Contractor's representations, the undersigned hereby authorizes Pinnacle Bank to release \$ \_\_\_\_\_, paid and held in escrow, pursuant to that certain Retainage Agreement between the Contractor, and Pinnacle Bank dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_. This RELEASE is executed for the sole purpose of releasing the amount (s) held in escrow as aforesaid and this RELEASE specifically does not, nor shall it be construed to, release, waive or otherwise affect any obligations of Contractor to comply with the construction contract or any claims, causes of action or rights which the undersigned has or may have against Contractor arising out of said contract or relating to the work performed there under.

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

STATE OF TENNESSEE )

: ss: )

COUNTY OF \_\_\_\_\_ )

Sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Notary Public

Commission Expires: \_\_\_\_\_



## GOVERNMENTAL GRANT CONTRACT

(cost reimbursement grant contract with a federal or Tennessee local governmental entity or their agents and instrumentalities)

<b>Begin Date</b> 10/1/2023	<b>End Date</b> 9/30/2024	<b>Agency Tracking #</b> 31602-24913	<b>Edison ID</b>		
<b>Grantee Legal Entity Name</b> Town of Ashland City			<b>Edison Vendor ID</b> 1534		
<b>Subrecipient or Recipient</b> <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Recipient		<b>Assistance Listing Number</b>			
		<b>Grantee's fiscal year end 6/30</b>			
<b>Service Caption</b> (one line only) Senior Center Competitive Grants					
<b>Funding —</b>					
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Grant Contract Amount</b>
FY 24	8,000.00				8,000.00
<b>TOTAL:</b>	<b>8,000.00</b>				<b>8,000.00</b>
<b>Grantee Selection Process Summary</b>					
<input checked="" type="checkbox"/> Competitive Selection		Senior Centers across the state submitted proposals for the competitive grant, and the applications were scored. The top one hundred and twenty-five applicants are awarded this grant.			
<input type="checkbox"/> Non-competitive Selection					
<b>Budget Officer Confirmation:</b> There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.				<i>CPO USE - GG</i>	
<b>Speed Chart</b> (optional)		<b>Account Code</b> (optional)			



**GRANT CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
TENNESSEE COMMISSION ON AGING AND DISABILITY  
AND  
TOWN OF ASHLAND CITY**

This grant contract ("Grant Contract"), by and between the State of Tennessee, Tennessee Commission on Aging and Disability, hereinafter referred to as the "State", "Grantor State Agency", and/or "SUA" and Grantee Town of Ashland City, hereinafter referred to as the "Grantee," is for the provision of Senior Center Competitive Grants, as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

Grantee Edison Vendor ID # 1534

**A. SCOPE OF SERVICES AND DELIVERABLES:**

- A.1. The Grantee shall provide the scope of services and deliverables ("Scope") as required, described, and detailed in this Grant Contract.
- A.2. Purpose. Funding for this grant award was appropriated by the General Assembly for the sole purpose of making grants on a competitive basis to Senior Centers across the state of Tennessee.
- A.3. The Grantee shall use the grant funding for costs related to one or more of the categories listed below. If the Grantee is unsure if an expenditure is allowable, the Grantee shall request approval from the State.
- a. Capital projects (building improvements, equipment, etc.);
  - b. Outreach and education;
  - c. Programming/activities; and/or
  - d. Routine operating expenses.
- A.4. The Grantee shall submit mid-term and final reports, using a template provided by the State, by March 31, 2024 and October 31, 2024. The reports shall include the following information:
- a. A narrative summary about the impact the grant funding had on the Senior Center and the item(s) purchased;
  - b. Number of unduplicated people served;
  - c. Pictures of items, materials, programs, activities, etc. purchased using the grant funding;
  - d. Financial receipts and descriptions of purchases; and
  - e. If applicable, testimonials from Senior Center members about how the funding impacted their participation at the Center.

**B. TERM OF CONTRACT:**

This Grant Contract shall be effective for the period beginning on October 1, 2023 ("Effective Date") and ending on September 30, 2024 ("Term"). The State shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed Eight Thousand Dollars (\$8,000.00) ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment A is the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

- C.2. Compensation Firm. The Maximum Liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.
- C.3. Payment Methodology. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.
- C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.
- C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, and present such to:

Tennessee Commission on Aging and Disability  
 9<sup>th</sup> Floor Andrew Jackson Bldg.  
 Nashville, TN 37243-0860

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice/Reference Number (assigned by the Grantee).
  - (2) Invoice Date.
  - (3) Invoice Period (to which the reimbursement request is applicable).
  - (4) Grant Contract Number (assigned by the State).
  - (5) Grantor: Tennessee Commission on Aging and Disability.
  - (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
  - (7) Grantee Name.
  - (8) Grantee Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract.
  - (9) Grantee Remittance Address.
  - (10) Grantee Contact for Invoice Questions (name, phone, or fax).
  - (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:
    - i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).
    - ii. The amount reimbursed by Grant Budget line-item to date.
    - iii. The total amount reimbursed under the Grant Contract to date.
    - iv. The total amount requested (all line-items) for the Invoice Period.
- b. The Grantee understands and agrees to all of the following.
- (1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.

- (2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.
  - (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
- C.6. Budget Line-item: Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may request revisions of Grant Budget line-items by letter, giving full details supporting such request, provided that such revisions do not increase total Grant Budget amount. Grant Budget line-item revisions may not be made without prior, written approval of the State in which the terms of the approved revisions are explicitly set forth. Any increase in the total Grant Budget amount shall require a Grant Contract amendment.
- C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within thirty (30) days of the Grant Contract end date, in form and substance acceptable to the State.
- a. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the section C, payment terms and conditions of this Grant Contract, the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.
  - b. The State shall not be responsible for the payment of any invoice submitted to the State after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.
  - c. The Grantee's failure to provide a final grant disbursement reconciliation report to the State as required by this Grant Contract shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the State pursuant to this Grant Contract.
  - d. The Grantee must close out its accounting records at the end of the Term in such a way that reimbursable expenditures and revenue collections are NOT carried forward.
- C.8. Indirect Cost. Should the Grantee request reimbursement for indirect costs, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Grantee will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.
- C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the Term.
- C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or related matter. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.

- C.11. Non-allowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment that are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute unallowable costs.
- C.12. State's Right to Set Off. The State reserves the right to set off or deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or under any other agreement between the Grantee and the State of Tennessee under which the Grantee has a right to receive payment from the State.
- C.13. Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following, properly completed documentation.
- a. The Grantee shall complete, sign, and return to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").
  - b. The Grantee shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

**D. STANDARD TERMS AND CONDITIONS:**

- D.1. Required Approvals. The State is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this Grant Contract, the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Tennessee laws and regulations (the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of this Grant Contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service that has not been rendered. The final decision as to the amount for which the State is liable shall be determined by the State. The Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the State's exercise of its right to terminate for convenience.
- D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract, or if the Grantee violates any terms of this Grant Contract, the State shall have the right to immediately terminate this Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of the State's right to

terminate this Grant Contract for cause, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee.

- D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall remain responsible for all work performed.
- D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.
- D.7. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
  - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
  - c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

- D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The State:

James Dunn, Executive Director  
 Tennessee Commission on Aging and Disability  
 9<sup>th</sup> Floor Andrew Jackson Bldg, Nashville, TN 37243-0860  
 james.dunn@tn.gov

Telephone # 615-532-4543  
 FAX # 615-741-3309

The Grantee:

JT Smith, Mayor of the Town of Ashland City  
 Town of Ashland City  
 104 Ruth Drive, Ashland City, TN 37015  
[jtsmith@ashlandcitytn.gov](mailto:jtsmith@ashlandcitytn.gov)  
 Telephone # 615-792-4211

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Grant Contract upon written notice to the Grantee. The State's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.10. Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.11. HIPAA Compliance. The State and the Grantee shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH) and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Grant Contract.
- a. The Grantee warrants to the State that it is familiar with the requirements of the Privacy Rules and will comply with all applicable HIPAA requirements in the course of this Grant Contract.
  - b. The Grantee warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.
  - c. The State and the Grantee will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and the Grantee in compliance with the Privacy Rules. This

provision shall not apply if information received by the State under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the State to receive such information without entering into a business associate agreement or signing another such document.

- D.12. Public Accountability. If the Grantee is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

- D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.
- D.14. Licensure. The Grantee, its employees, and any approved subcontractor shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.
- D.15. Records. The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

- D.16. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.17. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.
- D.18. Annual and Final Reports. The Grantee shall submit, within three (3) months of the conclusion of each year of the Term, an annual report. For grant contracts with a term of less than one (1) year, the Grantee shall submit a final report within three (3) months of the conclusion of the Term. For grant contracts with multiyear terms, the final report will take the place of the annual report for the final year of the Term. The Grantee shall submit annual and final reports to the Grantor State Agency. At minimum, annual and final reports shall include: (a) the Grantee's name; (b) the Grant Contract's Edison identification number, Term, and total amount; (c) a narrative section that describes the program's goals, outcomes, successes and setbacks, whether the Grantee used benchmarks or indicators to determine progress, and whether any proposed activities were not completed; and (d) other relevant details requested by the Grantor State Agency. Annual and final report documents to be completed by the Grantee shall appear on the Grantor State Agency's website or as an attachment to the Grant Contract.
- D.19. Audit Report. The Grantee shall be audited in accordance with applicable Tennessee law.
- At least ninety (90) days before the end of its fiscal year, the Grantee shall complete the Information for Audit Purposes ("IAP") form online (accessible through the Edison Supplier portal) to notify the State whether or not Grantee is subject to an audit. The Grantee should submit only one, completed form online during the Grantee's fiscal year. Immediately after the fiscal year has ended, the Grantee shall fill out the End of Fiscal Year ("EOFY") (accessible through the Edison Supplier portal).
- When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
- A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.
- D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—200.327 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.



For purposes of this Grant Contract, the term “equipment” shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00).

- D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Grant Contract is not a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties.
- D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- D.23. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Grant Contract. In no event will the State be liable to the Grantee or any other party for any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Grant Contract or otherwise. The State's total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.
- D.24. Force Majeure. “Force Majeure Event” means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party except to the extent that the non-performing party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Grantee's representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Grantee's performance longer than forty-eight (48) hours, the State may, upon notice to Grantee: (a) cease payment of the fees until Grantee resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Grantee will not increase its charges under this Grant Contract or charge the State any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.

- D.25. Tennessee Department of Revenue Registration. The Grantee shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.
- D.26. Charges to Service Recipients Prohibited. The Grantee shall not collect any amount in the form of fees or reimbursements from the recipients of any service provided pursuant to this Grant Contract.
- D.27. No Acquisition of Equipment or Motor Vehicles. This Grant Contract does not involve the acquisition and disposition of equipment or motor vehicles acquired with funds provided under this Grant Contract.
- D.28. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: [http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)
- D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-408.
- D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, whether written or oral.
- D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.
- D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.
- D.33. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.34. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
  - b. have not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of

federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.35. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Grantee by the State or acquired by the Grantee on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Grantee to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Grantee due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Grantee shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Grant Contract.

- D.36. State Sponsored Insurance Plan Enrollment. The Grantee warrants that it will not enroll or permit its employees, officials, or employees of contractors to enroll or participate in a state sponsored health insurance plan through their employment, official, or contractual relationship with Grantee unless Grantee first demonstrates to the satisfaction of the Department of Finance and Administration that it and any contract entity satisfies the definition of a governmental or quasigovernmental entity as defined by federal law applicable to ERISA.

## **E. SPECIAL TERMS AND CONDITIONS:**

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, the special terms and conditions shall be subordinate to the Grant Contract's other terms and conditions.
- E.2. Work Papers Subject to Review. The Grantee shall make all audit, accounting, or financial analysis work papers, notes, and other documents available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Grant Contract.
- E.3. Personally Identifiable Information. While performing its obligations under this Grant Contract, Grantee may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Grant Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other

applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Grantee agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Grantee shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Grantee and in accordance with this Grant Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Grantee shall immediately notify State: (1) of any disclosure or use of any PII by Grantee or any of its employees, agents and representatives in breach of this Grant Contract; and (2) of any disclosure of any PII to Grantee or its employees, agents and representatives where the purpose of such disclosure is not known to Grantee or its employees, agents and representatives. The State reserves the right to review Grantee's policies and procedures used to maintain the security and confidentiality of PII and Grantee shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify or ensure that Grantee is in full compliance with its obligations under this Grant Contract in relation to PII. Upon termination or expiration of the Grant Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Grantee shall immediately return to the State any and all PII which it has received under this Grant Contract and shall destroy all records of such PII.

The Grantee shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Grantee ("Unauthorized Disclosure") that come to the Grantee's attention. Any such report shall be made by the Grantee within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Grantee. Grantee shall take all necessary measures to halt any further Unauthorized Disclosures. The Grantee, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Grantee shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Grant Contract or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Grant Contract.

**IN WITNESS WHEREOF,**

**TOWN OF ASHLAND CITY:**

---

**JT SMITH, MAYOR OF THE TOWN OF ASHLAND CITY**

**DATE**

**TENNESSEE COMMISSION ON AGING AND DISABILITY:**

---

**JAMES DUNN, EXECUTIVE DIRECTOR**

**DATE**

**ATTACHMENT A**  
**Page 1**

<b>GRANT BUDGET</b>				
<b>SENIOR CENTER COMPETITIVE GRANT</b>				
<b>The Grant Budget line-item amounts below shall be applicable only to expense incurred during the following</b>				
<b>Applicable Period:</b>				
<b>BEGIN: 10/1/2023</b>		<b>END: 9/30/2024</b>		
<b>POLICY 03 Object Line-item Reference</b>	<b>EXPENSE OBJECT LINE-ITEM CATEGORY <sup>1</sup></b>	<b>GRANT CONTRACT</b>	<b>GRANTEE PARTICIPATION</b>	<b>TOTAL PROJECT</b>
1. 2	Salaries, Benefits & Taxes	0.00	0.00	0.00
4, 15	Professional Fee, Grant & Award <sup>2</sup>	8,000.00	0.00	8,000.00
5, 6, 7, 8, 9, 10	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications	0.00	0.00	0.00
11. 12	Travel, Conferences & Meetings	0.00	0.00	0.00
13	Interest <sup>2</sup>	0.00	0.00	0.00
14	Insurance	0.00	0.00	0.00
16	Specific Assistance To Individuals	0.00	0.00	0.00
17	Depreciation <sup>2</sup>	0.00	0.00	0.00
18	Other Non-Personnel <sup>2</sup>	0.00	0.00	0.00
20	Capital Purchase <sup>2</sup>	0.00	0.00	0.00
22	Indirect Cost	0.00	0.00	0.00
24	In-Kind Expense	0.00	0.00	0.00
25	<b>GRAND TOTAL</b>	<b>8,000.00</b>	<b>0.00</b>	<b>8,000.00</b>

<sup>1</sup> Each expense object line-item shall be defined by the Department of Finance and Administration Policy 03, *Uniform Reporting Requirements and Cost Allocation Plans for Subrecipients of Federal and State Grant Monies, Appendix A*. (posted on the Internet at: <https://www.tn.gov/finance/looking-for/policies.html>).

<sup>2</sup> Applicable detail follows this page if line-item is funded.

**ATTACHMENT A**  
**Page 2****GRANT BUDGET LINE-ITEM DETAIL:**

<b>PROFESSIONAL FEE, GRANT &amp; AWARD</b>	<b>AMOUNT</b>
Grant approved expenses related to one or more of the following categories: 1) capital projects; 2) outreach and education; 3) Programming/Activities; and/or 4) routine operating expenses.	\$8,000.00
<b>TOTAL</b>	<b>\$8,000.00</b>

RESOLUTION NO. 23 \_\_\_\_\_

A RESOLUTION OF THE TOWN OF ASHLAND CITY, TENNESSEE TO VOICE THEIR SUPPORT OF AN INLAND PORT IN THE TOWN OF ASHLAND CITY, TENNESSEE

WHEREAS, the construction and operation of the inland port on the Cumberland River in Ashland City, Cheatham County will provide significant economic and environmental benefits to the citizens of Cheatham County, the Town of Ashland City, and the State of Tennessee for many years to come; and

WHEREAS, a multi-modal, multi-commodity inland port would be the first of its kind in the state and would quickly become a critical part of state and local transportation infrastructure; and

WHEREAS, Ashland City's advantageous geographic position presents the ideal location for an inland port as the proposed site is within 10 miles of two major interstate highway systems and is primed for additional rail service via the Nashville and Western Railroad; and

WHEREAS, an inland port in Ashland City would help alleviate congestion and wear and tear on Tennessee's roads, diverting thousands of trucks from traveling millions of miles per year; and

WHEREAS, it is believed that the Town of Ashland City and Cheatham County would benefit economical from said port; and

WHEREAS, an inland port will help create a more reliable and sustainable supply chain for the entire state of Tennessee and will alleviate some of the import service delays that have occurred in recent years on the west coast; and

WHEREAS, barging is the most sustainable and safest form of multi-modal transportation, offering an impactful way to lower congestion, mitigate expensive transportation costs, and reduce air pollution all while preserving the natural beauty the river provides to the Town of Ashland City; now therefore

BE IT THEREFORE RESOLVED, that the Town of Ashland City Tennessee supports the development of an inland port in the town of Ashland City, Tennessee and endorses and encourages The Industrial Development Board of Cheatham County's efforts to secure the state funding necessary to aid in offsetting a portion of the project's capital costs therefore ensuring this project becomes a reality for the Town of Ashland City and Cheatham County.

BE IT FURTHER RESOLVED that certified copies of this resolution be transmitted to the Governor of the State of Tennessee, the Commissioner of the Tennessee Department of Transportation, the Cheatham County State Legislative Delegation, and The Industrial Development Board of Cheatham County.

Approved this the 10<sup>th</sup> day of October, 2023.



Voting in favor \_\_\_\_\_

Voting against \_\_\_\_\_

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Interim City Recorder

September 2023

# Economic Impact Analysis: Marine Cargo Facility

Ashland City, Cheatham County, TN

Prepared for:  
Ingram Marine Group

**REVIEW  
DRAFT**

September 13, 2023

PREPARED BY:

 **UNGER**

**JACKSON** » 97 DIRECTORS ROW | JACKSON, TN 38305 | 731.668.7367  
**MEMPHIS** » 2157 MADISON AVENUE | MEMPHIS, TN 38104 | 901.272.5005



## **Ingram Marine Group Cargo Terminal Economic Impact Analysis**

### **Introduction & Scope**

Ingram Marine Group retained Younger Associates to conduct an analysis of the economic impact of a new marine cargo operation to be located in Ashland City, Cheatham County, Tennessee.

This analysis evaluates the economic impact of the construction and ongoing operations of the new terminal. It is intended to provide key stakeholders, policymakers, and elected officials with a better understanding of the economic significance of new developments like the one proposed by Ingram Marine Group.

The analysis is based upon data from the U.S. Bureau of Economic Analysis (BEA) and a model of the local economy utilizing historical employment patterns, wage rates, tax rates, and tax collection ratios. Primary data regarding site development costs and construction costs were provided by the developer.

The analysis provides impact projections from capital investments and ongoing operations of the terminal. Impact is measured in terms of jobs, wages, and tax revenue, both direct and indirect.

### **Methodology**

The economic impact calculations in this study were generated using a model of the Cheatham County economy based on regional input-output multipliers (RIMS II) from the U.S. Bureau of Economic Analysis (BEA). The BEA developed the RIMS II system based on historical economic activity at the county level for 372 industry sectors. The RIMS II multipliers account for inter-industry relationships within regions comprised of one or more counties, in both the public and private sectors. The multipliers were originally developed to estimate the regional impacts of public projects such as military base closings and airport construction. The multipliers eliminate the need for surveys, which can introduce bias into the data. It should be noted that the RIMS II Type II Multipliers are utilized in this analysis, which project the total indirect as well as the induced jobs. When the term “indirect job” is used, it includes the induced jobs as well.

To effectively use RIMS II multipliers for economic impact analyses, detailed geographical and operational information on the initial changes in output, earnings, or employment is utilized. This data, which includes capital investment costs and operational data such as operational spending, jobs, and wages, was provided by Ingram Marine Group. The model also utilizes local wage rates, local tax rates, historical local tax collection ratios, local property values, and historical regional consumer spending patterns.

Younger Associates has used this impact calculation methodology in hundreds of projects across the United States for more than 30 years. The methodology is recognized by the International Economic Development Council and utilized in courses by the Economic Development Institute. The Younger Associates model for impact analyses is highly accurate, yet slightly conservative by design, in projecting tax revenue generation.

Secondary data collected by Younger Associates from the U.S. Department of Labor - Bureau of Labor Statistics, the U.S Bureau of Economic Analysis, the State of Tennessee Department of Revenue, and the State of Tennessee Department of Labor and Workforce Development is also used in this analysis.

### **Impact Definitions**

**Economic Impact** – the total dollar value of change in output from all industries within the local economy that results from \$1 of change in output from operations. This impact represents the total dollars flowing through the local economy due to the activity associated with the new marine cargo terminal.

**Direct Jobs** – the number of jobs directly employed by Ingram Marine Group.

**Indirect Jobs** – the number of jobs across all industries in the local economy supported by the ongoing operations of the marine cargo terminal. This includes jobs (or hours of work, which comprise portions of a job) of vendors and other businesses that provide direct services to the terminal, as well as induced jobs that are supported in ancillary sectors such as retail stores, restaurants, personal services, transportation, and all other industry sectors.

**Local Taxes** – the dollar amount of taxes collected for Ashland City and Cheatham County both directly and indirectly from local option sales tax and other, smaller local tax revenue sources such as business permits and alcohol and tobacco taxes. The state portion of sales tax and other state and federal taxes that are reapportioned to the city and county are not included.

### **One-Time Impact**

Ingram Marine Group plans to invest \$41.8 million for construction and set-up of the new cargo terminal. This includes \$23.3 million for the building and \$18.5 million for equipment. This investment is projected to generate a one-time impact of \$56.2 million for the local economy during the construction and set-up period.

Additionally, 234 jobs will be supported during the development period. For example, should the construction period be two years, an average of 117 jobs would be supported annually. Total wages paid to jobs supported during the construction and set-up period are projected to be \$12.6 million.

Direct sales tax from taxable goods and services for the construction of the terminal and indirect sales tax generated by the spending of wages paid to jobs supported are estimated to total \$707,000 during the development period.

### **Impact from Ongoing Operations**

Ingram Marine Group estimates an annual operating budget of \$2.7 million, and the annual economic impact generated by these operations is estimated to be \$3.5 million. This is a measure of the total dollars flowing through the Cheatham County economy because of the terminal's operations.

## Jobs, Wages and Local Taxes

The ongoing operations of the cargo terminal will support 24 jobs directly paying \$2 million in wages. Operations of the terminal will support an additional 21 indirect jobs paying \$1.1 million in wages. Spending of wages paid to the direct and indirect jobs is projected to generate over \$104,000 in local indirect tax revenue annually.

**Table 1: Summary of Economic Impact**

Impact from Operations			
Metric	One-Time Impact from Construction	Annual Impact (at full operation)	10-Year Impact (includes one-time impact)
Economic Impact	\$ 56,211,160	\$ 3,550,774	\$ 91,718,904
Direct/Indirect Jobs	234	45	45
Wages (Direct & Indirect)	\$ 12,631,796	\$ 3,165,379	\$ 31,653,791
Local Sales Tax (Direct & Indirect)	\$ 707,534	\$ 104,230	\$ 3,568,200

The tables on the following pages contain detailed calculations supporting the numbers cited in this report.

# Economic Impact Analysis

## Project Summary

Company/Applicant:	Ingram Marine Group
Capital Investment: (new)	\$ 44,300,000
Jobs:	24
Annual Average Wage: (weighted average)	\$ 104,557
Annual Economic Impact:	\$ 3,550,774
Annual Net New Property Tax:	\$ 275,644
Annual Local Tax Benefit: (Direct & Indirect - All Sources)	\$ 379,873

## 10-Year Operations Impact, Plus One-Time Construction Impact

Economic Impact	\$ 91,718,904
Wages:	\$ 31,653,791
Net New Property Tax	\$ 2,756,436
Total Local Taxes: (Direct & Indirect - All Sources)	\$ 3,568,200

**Ashland City, Cheatham County, TN  
Ingram Marine Group Cargo Facility  
Economic Impact Analysis**

One-Time Expansion Impact		
Total Capital Investment	\$	41,800,000
Building - Real Property	\$	23,300,000
Final Demand Output Multiplier <sup>1</sup>		1.4077
Economic Impact	\$	32,799,410
Equipment Purchase/Set-up - Personal Property	\$	18,500,000
Final Demand Output Multiplier <sup>2</sup>		1.2655
Economic Impact	\$	23,411,750
Local Sales Tax (Direct) 2.75%*	\$	459,800
<b>Total Economic Impact</b>	<b>\$</b>	<b>56,211,160</b>
Final Demand Employment Multiplier <sup>3</sup>		5.6094
<b>Jobs Supported During the Construction Period**</b>		<b>234</b>
Cheatham County Projected 2023 Annual Average Wage <sup>4</sup>	\$	53,873
<b>Wages Paid to Jobs Supported During Construction Period</b>	<b>\$</b>	<b>12,631,796</b>
Local Sales Tax Revenue (Indirect) <sup>5</sup>	\$	203,561
Other Local Tax Revenue (Indirect) <sup>6</sup>	\$	44,173
<b>Total Tax Revenue</b>	<b>\$</b>	<b>707,534</b>

*\*Assumes 40% of construction and equipment are subject to local sales tax.*

*\*\*Total employment for the construction period. If the construction period is two years, the annual average employment would be 117.*

**Ashland City, Cheatham County, TN  
Ingram Marine Group Cargo Facility  
Economic Impact Analysis**

Annual Impact of Operations		
Employment, Direct (New full-time equivalent jobs) *		24
Wages & Benefits, Direct*	\$	2,057,316
Direct Effect Employment Multiplier <sup>7</sup>		1.8570
<b>Total Employment</b>		<b>45</b>
Employment, Indirect		21
Cheatham County Projected 2023 Annual Average Wage <sup>4</sup>	\$	53,873
Wages, Indirect	\$	1,108,063
<b>Total Wages</b>	<b>\$</b>	<b>3,165,379</b>
Local Sales Tax Revenue (Indirect) <sup>5</sup>	\$	51,010
Other Local Tax Revenue (Indirect) <sup>6</sup>	\$	11,069
Indirect Local Property Tax Revenue <sup>8</sup>	\$	42,151
<b>Total Tax Revenue</b>	<b>\$</b>	<b>104,230</b>
Annual Operating Budget*	\$	2,713,000
Final Demand Output Multiplier <sup>9</sup>		1.3088
<b>Economic Impact from Operations</b>	<b>\$</b>	<b>3,550,774</b>

*\*Provided by the developer.*



**Ashland City, Cheatham County, TN  
Ingram Marine Group Cargo Facility  
Real Property Tax Schedule**

Appriased Value after Completion:	\$	22,000,000
Current Appraised Value:	\$	752,500
Net New Value:	\$	21,247,500
 Assessed Value after Completion: (40% Ratio)	 \$	 8,499,000

**Cheatham County**

Real Property - Land & Building	
Cheatham County Rate: \$2.4767	Full Taxes
Year 1	\$ 210,486
Year 2	\$ 210,486
Year 3	\$ 210,486
Year 4	\$ 210,486
Year 5	\$ 210,486
Year 6	\$ 210,486
Year 7	\$ 210,486
Year 8	\$ 210,486
Year 9	\$ 210,486
Year 10	\$ 210,486
Total	\$ 2,104,862

**Ashland City**

Real Property - Land & Building	
Ashland City Tax Rate: \$0.59	Full Taxes
Year 1	\$ 50,144
Year 2	\$ 50,144
Year 3	\$ 50,144
Year 4	\$ 50,144
Year 5	\$ 50,144
Year 6	\$ 50,144
Year 7	\$ 50,144
Year 8	\$ 50,144
Year 9	\$ 50,144
Year 10	\$ 50,144
Total	\$ 501,441

<b>Total Taxes:</b>	<b>\$</b>	<b>2,606,303</b>
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**Ashland City, Cheatham County, TN  
Ingram Marine Group Cargo Facility  
Personal Property Tax Schedule**

Cheatham County Personal Property			Ashland City Personal Property		
Cheatham County Rate: \$2.4767	Full Taxes 30% Assessment Ratio	MACRS Depreciation Schedule	Ashland City Tax Rate: \$0.59	Full Taxes 30% Assessment Ratio	MACRS Depreciation Schedule
<b>Value</b>	<b>\$ 18,500,000</b>		<b>Value</b>	<b>\$ 18,500,000</b>	
Year 1	\$ 13,745	0.100	Year 1	\$ 3,219	0.100
Year 2	\$ 24,741	0.180	Year 2	\$ 5,794	0.180
Year 3	\$ 19,793	0.144	Year 3	\$ 4,635	0.144
Year 4	\$ 12,646	0.092	Year 4	\$ 2,961	0.092
Year 5	\$ 10,171	0.074	Year 5	\$ 2,382	0.074
Year 6	\$ 9,072	0.066	Year 6	\$ 2,125	0.066
Year 7	\$ 9,072	0.066	Year 7	\$ 2,125	0.066
Year 8	\$ 8,934	0.065	Year 8	\$ 2,092	0.065
Year 9	\$ 8,934	0.065	Year 9	\$ 2,092	0.065
Year 10	\$ 4,536	0.033	Year 10	\$ 1,062	0.033
<b>Total</b>	<b>\$ 121,644</b>		<b>Total</b>	<b>\$ 28,488</b>	

**Total Projected New Property Tax: \$ 150,133**

Annual Average: \$ 15,013

## Notes for Ingram Maine Ashland City Terminal Impact Analysis:

1. U.S. Bureau of Economic Analysis RIMS II final demand aggregate output multiplier for Cheatham County, Tennessee for Construction. This multiplier represents the total dollar change in output that occurs in all industries for each additional dollar of output delivered by the specified industry.
2. U.S. Bureau of Economic Analysis RIMS II final demand aggregate output multiplier for Cheatham County, Tennessee for wholesale trade support activities.
3. U.S. Bureau of Economic Analysis RIMS II final demand employment multiplier for Cheatham County, Tennessee for Construction. This multiplier represents the number of jobs supported per million dollars of output from the specified industry.
4. Projection based upon data from Tennessee Department of Labor; Annual Average Wage/Salary for all industry sectors in Cheatham County, 2022. Assumes an average wage increase of 1.5% for 2023.
5. U.S. Department of Labor, "Consumer Expenditure Survey, Southern US" 2021; factor applied to direct and indirect wages to determine the rate of indirect or "downstream" expenditures on sales taxable goods and services at the Ashland City and Cheatham County local option rate of 2.75%.
6. Based upon July 2022 - June 2023 collections of business, motor vehicle and other local taxes compared to sales tax for Cheatham County.
7. U.S. Bureau of Economic Analysis RIMS II direct effect employment multiplier for Cheatham County, for truck transportation. This multiplier represents the total change in the number of jobs supported in all industries for each additional job created by the specified industry.
8. Indirect property tax for Cheatham County and Ashland City is based on the new direct jobs created by the company. For this calculation, it is assumed that 75% of the direct jobs reside in Cheatham County and represent one household per job. The 2023 median home value is utilized as a proxy for residential property value, to determine property tax generated per job. The residential assessment rate of 25% is utilized for all residences, including those in multifamily buildings assessed at 40%, and a combined Cheatham County (\$2.4766) and Ashland City (\$0.58) tax rate of \$3.06 per \$100 of assessed value is used to project the annual tax per job. The property tax from new or expanded commercial property that is generated indirectly from economic activity associated with the jobs supported by the company is not projected.
9. U.S. Bureau of Economic Analysis RIMS II final demand aggregate output multiplier for Cheatham County, Tennessee for truck transportation.

Note: All calculations are in constant 2023 dollars. No tax rate increases are assumed.  
The 2012/2021 RIMS II multipliers are utilized for this analysis.

**JOB DESCRIPTION**

**Town of Ashland City  
City Administrator**

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**CLASSIFICATION TITLE:** City Administrator  
**DEPARTMENT:** General Government  
**REVISION DATE:** 10-06-2023  
**REPORTS TO:** City Council  
**EMPLOYMENT STATUS:** Full Time  
**FLSA STATUS:** Exempt  
**PAY RANGE:** Pay Grade Level 11

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**JOB SUMMARY**

The City Administrator is under the direction of the City Council, this position oversees the day-to-day operations of the town to ensure the town’s services are provided in the most efficient and effective manner. The city administrator should live within a distance agreed upon between the City Administrator and the city council so all functions of the position can be more efficiently fulfilled.

**ESSENTIAL DUTIES AND RESPONSIBILITIES**

- Responsible for the daily and efficient operation of city functions and services, works with department heads for the efficient operation of the city. Makes recommendations to the Council for improving quality and quantity of services.
- Works with the City Recorder in preparing the agenda for city council meetings in consultation with the mayor, council members, city attorney, all department heads, and the City Recorder.
- Attends all official meetings of the city council and its committees including but not limited to the Planning Commission with the right to take part in all discussions, but not vote.
- Recommend to the city council the adoption of all such ordinances, resolutions, or other action that he or she deems necessary.
- Assist Mayor, Finance Director and department heads with preparation and implementation of the annual budget for all funds and departments and shall be responsible for oversight of departmental budget development.
- Coordinate long range budget planning efforts and prepare Capital Improvement Plan budgets for the city.
- Works with department heads to determine work procedures, work schedules to expedite workflow; studies and standardizes procedures to improve efficiency and effectiveness of operations.
- Facilitates positive, professional attitude among workers and resolves grievances. able to integrate the employees with the council to have a cohesive team in order to achieve goals and provide effective services.

- Prepares a variety of studies, reports, and related information for decision making purposes as needed.
- Nominate individuals to mayor for appointment as department heads and supervise activities of all department heads.
- Initiate discipline and discharge proceedings against department heads and assist department heads with discipline and discharge of employees with the concurrence of the mayor.
- Provides professional advice to the council and department heads; makes presentations of the Board and committees, civic groups, and general public.
- Keep the council advised as to the condition and needs of the City. Provides leadership and direction in the development of short- and long-range plans; gathers, interprets, and prepares data for studies, reports, and recommendations; coordinates department activities.
- Report to the council on the condition of all equipment, buildings, and real estate.
- Monitor all available grant opportunities and administer and coordinate all state and federal grants received by the city.
- To implement personnel ordinances, rules and regulations as adopted by the Council.
- Represents the Mayor and the city at various meetings, functions, and events; serves as a liaison to various civic or governmental organizations and committees; confers regularly with officials from the other municipalities, chamber of commerce, authorities and commissions and keeps the mayor apprised of activities.

### **QUALIFICATIONS**

- Bachelor's Degree, although master's degree preferred in public administration, business administration, political science, or related field from an accredited college or university.
- Minimum of 5 to 7 years of executive management experience as a City Administrator/City Manager or Assistant City Administrator/Manager in Local Government or closely related field which includes operations management, budgeting and managing personnel.

### **REQUIRED KNOWLEDGE AND ABILITIES**

- Should have a working knowledge of government finance with proven experience in administering budgets and should possess high level communication skills.
- Working knowledge of government finance with proven experience in administering budgets and should possess high level communication skills.

- Ability to analyze municipal operations and make recommendations to the board for improvements.
- Ability to plan, assign, and coordinate the activities of city employees and other resources to achieve the most efficient and effective day to day operations.
- Ability to establish and maintain effective working relationships with the general public, employees, City Attorney and elected officials. Able to operate effectively and efficiently in a team environment.
- Detail-oriented and self-motivated.
- Ability to be bonded in such sum as may be fixed by and with such surety as may be acceptable to the city council.

### **EQUIPMENT OPERATED**

- Computer, printer, various office machines (phone, calculator, copier, etc.)
- Microsoft Office Suites
- Cell phone

### **WORKING CONDITIONS**

- Working conditions are in an office environment.
- The working environment is office setting with some lifting of office supplies weighing up to 25 lbs.

### **USUAL PHYSICAL DEMANDS**

- Must be able to lift office supplies and materials.
- Long hours of sitting with intermittent standing
- Using office equipment and computers

### **EMPLOYEE AWARENESS**

- Implement and assure adherence to The Town of Ashland City policies and procedures regarding Equal Employment Opportunity.
- Adheres to The Town of Ashland City initiative on business ethics and conduct.
- Adheres to federal/state laws and relations regarding MSDA, OSHA and EPA compliance.

This is not necessarily an exhaustive list of all responsibilities, skills, duties, requirements, efforts or working conditions associated with the job. While this is intended to be an accurate reflection of the current job, management reserves the right to revise the job, or to require that other, or different tasks be performed when circumstances change (i.e., emergencies, changes in personnel or workload, etc.).

**MANAGEMENT APPROVAL**

\_\_\_\_\_  
**Department Head's Signature**

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date

\_\_\_\_\_  
**Human Resource Director's Signature**

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date

**EMPLOYEE UNDERSTANDING AND AGREEMENT**

\_\_\_\_\_  
**Employee's Signature**

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date



# AIA® Document A101® – 2017

## Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

**AGREEMENT** made as of the twenty fifth day of October in the year two thousand twenty three  
*(In words, indicate day, month and year.)*

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

The Town of Ashland City  
The Honorable J.T. Smith, Mayor  
233 Tennessee Waltz Parkway  
Ashland City, Tennessee 37015

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

Solomon Builders  
4539 Trousdale Drive  
Nashville, Tennessee 37204

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

A New City Hall for The Town of Ashland City  
405 North Main Street  
Ashland City, Tennessee 37015

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

Joshua A. Wright Architect  
8061 Highway 41 A  
Cedar Hill, Tennessee 37032

The Owner and Contractor agree as follows.

### ADDITIONS AND DELETIONS:

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

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

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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## TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS

### EXHIBIT A INSURANCE AND BONDS

#### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

#### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

#### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

*(Check one of the following boxes.)*

- The date of this Agreement.
- A date set forth in a notice to proceed issued by the Owner.
- 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 this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

#### § 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

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

Init.

Not later than three hundred ninety six ( 396 ) calendar days from the date of commencement of the Work.

By the following date:

§ 3.3.2 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 Contractor shall achieve Substantial Completion of such portions by the following dates:

**Portion of Work**

**Substantial Completion Date**

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

**ARTICLE 4 CONTRACT SUM**

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be nine million four hundred sixty two thousand five hundred twenty three ( \$ 9,462,523.00 ), subject to additions and deductions as provided in the Contract Documents.

**§ 4.2 Alternates**

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
None	

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. *(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

Item	Price	Conditions for Acceptance
None		

§ 4.3 Allowances, if any, included in the Contract Sum: *(Identify each allowance.)*

Item	Price
Access Control/Security Cameras	\$78,000.00
20 X 20 Grilles at Courtroom	\$100.00 extra per grille
Water Tap/Fire Hydrant	Additional \$35,000.00
Interior Signage	\$6,000.00
Exterior Signage	\$30,000.00

§ 4.4 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)
NA		

§ 4.5 Liquidated damages, if any: *(Insert terms and conditions for liquidated damages, if any.)*

\$500.00 per day past the date of substantial completion

§ 4.6 Other: *(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)*

## ARTICLE 5 PAYMENTS

### § 5.1 Progress Payments

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

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

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the tenth day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the tenth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty ( 30 ) days after the Architect receives the Application for Payment.

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

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 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.

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

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

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 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 Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

### § 5.1.7 Retainage

§ 5.1.7.1 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.)*

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Five percent

§ 5.1.7.1.1 The following items are not subject to retainage:

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

None

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

*(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)*

NA

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

*(Insert any other conditions for release of retainage upon Substantial Completion.)*

NA

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

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

## § 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor’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; and
- .2 a final Certificate for Payment has been issued by the Architect.

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

## § 5.3 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.)*

5 % five percent

## ARTICLE 6 DISPUTE RESOLUTION

### § 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

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

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ITEM # 13.

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**§ 6.2 Binding Dispute Resolution**

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

- Arbitration pursuant to Section 15.4 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other (Specify)

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

**ARTICLE 7 TERMINATION OR SUSPENSION**

**§ 7.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

**§ 7.1.1** If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:  
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)

Percentage of work completed

**§ 7.2** The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

**ARTICLE 8 MISCELLANEOUS PROVISIONS**

**§ 8.1** 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.

**§ 8.2** The Owner’s representative:  
(Name, address, email address, and other information)

The Honorable J.T. Smith, Mayor  
The Town of Ashland City  
233 Tennessee Waltz Parkway  
Ashland City, Tennessee 37015

**§ 8.3** The Contractor’s representative:  
(Name, address, email address, and other information)

Steve Hannon  
Solomon Builders  
4536 Trousdale Drive  
Nashville, Tennessee 37204

Init.

User Notes:

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

**§ 8.5 Insurance and Bonds**

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™-2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

*(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*

Not Applicable

**§ 8.7 Other provisions:**

"Where the price of any category of material, equipment, insurance, or utility increases significantly during the term of the Agreement, the Contract Sum shall be increased in like amount by Change Order. A significant price increase means a change in price from the date of the Agreement execution to the date of purchase by an amount exceeding three percent (3%) of the particular material, equipment, insurance or utility estimated cost in Contractor's proposal. If the estimated cost is not identified in Contractor's proposal, then the base cost shall be the then-current market price. Such price increases shall be documented by vendor quotes, invoices, catalogs, receipts or other documents of commercial use. Further, the parties acknowledge that some of the materials and products to be used and installed in the construction of the Project may become unavailable, delayed in shipment and/or subject to price increases due to circumstances beyond the control of the Contractor, including the COVID-19 pandemic. If a specified product is unavailable or shipment is delayed, Contractor shall provide written notice to Owner as provided in the Contract Documents and shall be afforded additional time and substitute products may be considered if necessary. The Contractor shall take all reasonable measures to protect the Owner from these price increases by making early commitments where reasonable and approved by the Owner. The Contractor shall notify the Owner as soon as the price increase is known and will research alternate solutions for the Owner to consider."

**ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS**

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™-2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

*(Insert the date of the E203-2013 incorporated into this Agreement.)*

- .5 Drawings

Number	Title	Date
T1	Title Sheet	4.10.23
T1 (Civil)	Title Sheet	1.17.23
C1	Existing Site	1.17.23
C2	Site Plan	1.17.23

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User Notes:

ITEM # 13.

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C3	Grading Plan	1.17.23
C4	Initial EPSC Plan	1.17.23
C5	Interim EPSC Plan	1.17.23
C6	Final EPSC Plan	1.17.23
C7	EPSC Details	1.17.23
C8	Stormwater Details	1.17.23
C9	Stormtech Layout	1.17.23
C10	Stormtech Details	1.17.23
C11	Utility Plan	1.17.23
C12	Utility Details	1.17.23
C13	Site Details	1.17.23
T2	Code Data	1.22.21
T3	Interior ADA Signage	1.17.23
T4	UL Details	4.10.23
T5	UL Details	4.10.23
LS1	Life Safety Plan	4.10.23
A1.1	Schematic Site Plan	10.25.22
A1.2	Retaining Wall Details	1.22.21
A2.1	Foundation	1.22.21
	Waterproofing Details	
A2.2	Floor Plan	4.10.23
A2.3.1	Enlarged Plan Details	1.22.21
A2.3.2	Enlarged Plan Details	1.22.21
A2.4	Reflected Ceiling Plan	1.17.23
A2.5	Schematic Furniture Plan	1.17.23
A2.6	Roof Plan	1.22.21
A2.7	Roof Details	1.22.21
A2.8	Control Joint Plan	1.17.23
A3.1	Exterior Elevations	10.25.22
A3.2	Exterior Elevations	10.25.22
A3.3	Enlarged Elevations	1.22.21
A4.1	Finish & Door Schedules	1.17.23
A4.2	Window Details	10.25.22
A4.3	Teller Details	10.25.22
A4.4	Door Details & Hardware	1.17.23
A5.1	Building Sections	1.17.23
A5.2	Section Details	1.22.21
A6.1	Interior Elevations	1.22.21
A6.2	Interior Elevations	1.22.21
A6.3	Courtroom Details	10.25.22
A7.1	Zip System Details	1.22.21
A7.2	Zip System Details	1.22.21
A7.3	Zip System Details	1.22.21
A7.4	Moving Partition Details	1.22.21
A7.5	Canopy Details	1.22.21
A7.6	Dumpster Enclosure	1.22.21
A7.7	Diaper Changing Station	1.22.21
A7.8	Conference Room Details	1.22.21
S1.0	General Notes	10.25.22
S2.0	Foundation Plan	1.22.21
S3.0	Framing Plan	1.22.21
S4.0	Roof Framing Plan	1.22.21
S5.0	Structural Details	1.22.21
S6.0	Structural Details	1.22.21
M1.1	Mechanical Floor Plan	4.10.23
M1.2	VRF & Refrigerant Plan	1.22.21
M1.3	Kitchen Hood Specs	4.10.23

M1.4	Make Up Air Specs	1.17.23
M1.5	VRF Specs	1.22.21
M1.6	Mechanical Specs	1.17.23
M1.7	Mechanical Details	1.17.23
M1.8	UL Details	1.17.23
P1.1	Water Supply	1.22.21
P1.2	Waste Water Supply	1.22.21
P1.3	Supply/Waste Water	1.22.21
P1.4	Gas Supply Plan	1.22.21
P1.5	Plumbing Specs	10.25.22
P1.6	Plumbing Details	1.22.21
E0.1	Electrical Site Plan	1.17.23
E1.0	Lighting Plan	1.17.23
E2.0	Power & Systems	1.17.23
E2.1	HVAC Power Plan	1.22.21
E3.0	Electrical Legends	1.22.21
FP1.0	Fire Protection Plan	1.17.23
FP2.0	Fire Protection Details	1.17.23
FP2.1	Fire Protection Site	1.17.23

**.6 Specifications**

<b>Section</b>	<b>Title</b>	<b>Date</b>	<b>Pages</b>
0.01	Invitation To Bid	1.22.23	2
0.02	Instruction To Bidders	1.22.23	1
0.03	AIA A1.0 Sample	1.22.23	1
0.04	USDA Attachment A101	1.22.23	1
0.041	AIA A201 General Cond.	1.22.23	1
0.042	Cert. of Owner Attorney	1.22.23	1
0.05	Bid Form	1.22.23	2
0.051	AIAA310-2010BidBond	1.22.23	1
0.06	Iran Divestment Act	1.22.23	1
0.07	Drug Free Workplace Aff	1.22.23	1
0.071	Title VI Policy	1.22.23	1
0.072	Info. Collection Req.	1.22.23	1
0.073	Pol. of nondiscrimination	1.22.23	1
0.074	USDA comp. statement	1.22.23	1
0.075	USDA certification regarding debarment, suspension, ineligibility, & voluntary exclusion-lower tiercovered transactions		
0.076	USDA Certification for Contracts, Grants and Loans	1.22.23	1
0.077	USDA notice of award	1.22.23	1
0.078	USDA rural development concurrence form	1.22.23	1
0.10	USDA notice to proceed	1.22.23	1
0.11	AIA G701-2017 change order form	1.22.23	1
0.12	AIA G701S-2017 change order contractor subcontractor form		
0.13	AIA-G704-2000	1.22.23	1
0.14	certificate of substantial	1.22.23	1

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0.15	completion AIA-A312-2010 Payment Bond	1.22.23	1
0.16	AIA-G7065-1994	1.22.23	1
0.17	contractor's affidavit of payment of debts and claims	1.22.23	1
0.18	USDA construction sign	1.22.23	1
0.19	USDA certificate of owner's attorney	1.22.23	1
1.00	Alternates	1.22.23	1
1.01	Summary of the work	1.22.23	1
1.02	Allowances	1.22.23	1
1.03	Contract modification procedures	1.22.23	3
1.04	Payment procedures	1.22.23	4
1.05	Submittal procedures	1.22.23	9
1.06	Quality Requirements	1.22.23	6
1.07	References	1.22.23	2
1.08	Temporary facilities & controls	1.22.23	3
1.09	Product requirements	1.22.23	7
1.10	Execution requirements	1.22.23	6
1.11	Cutting and patching	1.22.23	4
1.12	Closeout procedures	1.22.23	7
1.13	Weather delays	1.22.23	3

Appendices A thru W

**.7** Addenda, if any:

Number	Date	Pages
Addendum 1	8.7.23	14
Addendum 2	8.14.23	9
Addendum 3	8.16.23	6
Addendum 4	8.17.23	3

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

**.8** Other Exhibits:

*(Check all boxes that apply and include appropriate information identifying the exhibit where required.)*

**[ NA ]** AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:  
*(Insert the date of the E204-2017 incorporated into this Agreement.)*

**[ NA ]** The Sustainability Plan:

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

**[ X ]** Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
RD Instruction 1942-A	Guide 27-Attachment 3	4.12.22	5

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- .9 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 Contractor'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.)*

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

\_\_\_\_\_  
OWNER (Signature)

J.T. Smith Honorable Mayor of Ashland City  
\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
CONTRACTOR (Signature)

Steve Hannon Director of Operations  
\_\_\_\_\_  
(Printed name and title)

# Additions and Deletions Report for AIA® Document A101® – 2017

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:48:42 ET on 10/18/2023.

## PAGE 1

**AGREEMENT** made as of the twenty fifth day of October in the year two thousand twenty three

...

The Town of Ashland City  
The Honorable J.T. Smith, Mayor  
233 Tennessee Waltz Parkway  
Ashland City, Tennessee 37015

...

Solomon Builders  
4539 Trousdale Drive  
Nashville, Tennessee 37204

...

A New City Hall for The Town of Ashland City  
405 North Main Street  
Ashland City, Tennessee 37015

...

Joshua A. Wright Architect  
8061 Highway 41 A  
Cedar Hill, Tennessee 37032

## PAGE 2

A date set forth in a notice to proceed issued by the Owner.

## PAGE 3

Not later than three hundred ninety six ( 396 ) calendar days from the date of commencement of the Work.

...

**§ 4.1** The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be nine million four hundred sixty two thousand five hundred twenty three ( \$ 9,462,523.00 ), subject to additions and deductions as provided in the Contract Documents.

...

None

...

None

...

<u>Access Control/Security Cameras</u>	<u>\$78,000.00</u>
<u>20 X 20 Grilles at Courtroom</u>	<u>\$100.00 extra per grille</u>
<u>Water Tap/Fire Hydrant</u>	<u>Additional \$35,000.00</u>
<u>Interior Signage</u>	<u>\$6,000.00</u>
<u>Exterior Signage</u>	<u>\$30,000.00</u>

...

NA

...

\$500.00 per day past the date of substantial completion

**PAGE 4**

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the tenth day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the tenth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty ( 30 ) days after the Architect receives the Application for Payment.

**PAGE 5**

Five percent

...

None

...

NA

...

NA

...

5 % five percent

**PAGE 6**

Litigation in a court of competent jurisdiction

...

Percentage of work completed

...

The Honorable J.T. Smith, Mayor  
The Town of Ashland City  
233 Tennessee Waltz Parkway  
Ashland City, Tennessee 37015

...

Steve Hannon  
Solomon Builders  
4536 Trousdale Drive  
Nashville, Tennessee 37204

**PAGE 7**

Not Applicable

...

"Where the price of any category of material, equipment, insurance, or utility increases significantly during the term of the Agreement, the Contract Sum shall be increased in like amount by Change Order. A significant price increase means a change in price from the date of the Agreement execution to the date of purchase by an amount exceeding three percent (3%) of the particular material, equipment, insurance or utility estimated cost in Contractor's proposal. If the estimated cost is not identified in Contractor's proposal, then the base cost shall be the then-current market price. Such price increases shall be documented by vendor quotes, invoices, catalogs, receipts or other documents of commercial use. Further, the parties acknowledge that some of the materials and products to be used and installed in the construction of the Project may become unavailable, delayed in shipment and/or subject to price increases due to circumstances beyond the control of the Contractor, including the COVID-19 pandemic. If a specified product is unavailable or shipment is delayed, Contractor shall provide written notice to Owner as provided in the Contract Documents and shall be afforded additional time and substitute products may be considered if necessary. The Contractor shall take all reasonable measures to protect the Owner from these price increases by making early commitments where reasonable and approved by the Owner. The Contractor shall notify the Owner as soon as the price increase is known and will research alternate solutions for the Owner to consider."

...

<u>T1</u>	<u>Title Sheet</u>	<u>4.10.23</u>
<u>T1 (Civil)</u>	<u>Title Sheet</u>	<u>1.17.23</u>
<u>C1</u>	<u>Existing Site</u>	<u>1.17.23</u>
<u>C2</u>	<u>Site Plan</u>	<u>1.17.23</u>
<u>C3</u>	<u>Grading Plan</u>	<u>1.17.23</u>
<u>C4</u>	<u>Initial EPSC Plan</u>	<u>1.17.23</u>
<u>C5</u>	<u>Interim EPSC Plan</u>	<u>1.17.23</u>
<u>C6</u>	<u>Final EPSC Plan</u>	<u>1.17.23</u>
<u>C7</u>	<u>EPSC Details</u>	<u>1.17.23</u>
<u>C8</u>	<u>Stormwater Details</u>	<u>1.17.23</u>
<u>C9</u>	<u>Stormtech Layout</u>	<u>1.17.23</u>
<u>C10</u>	<u>Stormtech Details</u>	<u>1.17.23</u>
<u>C11</u>	<u>Utility Plan</u>	<u>1.17.23</u>
<u>C12</u>	<u>Utility Details</u>	<u>1.17.23</u>
<u>C13</u>	<u>Site Details</u>	<u>1.17.23</u>
<u>T2</u>	<u>Code Data</u>	<u>1.22.21</u>
<u>T3</u>	<u>Interior ADA Signage</u>	<u>1.17.23</u>
<u>T4</u>	<u>UL Details</u>	<u>4.10.23</u>
<u>T5</u>	<u>UL Details</u>	<u>4.10.23</u>
<u>LS1</u>	<u>Life Safety Plan</u>	<u>4.10.23</u>
<u>A1.1</u>	<u>Schematic Site Plan</u>	<u>10.25.22</u>
<u>A1.2</u>	<u>Retaining Wall Details</u>	<u>1.22.21</u>
<u>A2.1</u>	<u>Foundation</u>	<u>1.22.21</u>

<u>A2.2</u>	<u>Waterproofing Details</u>	
<u>A2.3.1</u>	<u>Floor Plan</u>	<u>4.10.23</u>
<u>A2.3.2</u>	<u>Enlarged Plan Details</u>	<u>1.22.21</u>
<u>A2.4</u>	<u>Enlarged Plan Details</u>	<u>1.22.21</u>
<u>A2.5</u>	<u>Reflected Ceiling Plan</u>	<u>1.17.23</u>
<u>A2.6</u>	<u>Schematic Furniture Plan</u>	<u>1.17.23</u>
<u>A2.7</u>	<u>Roof Plan</u>	<u>1.22.21</u>
<u>A2.8</u>	<u>Roof Details</u>	<u>1.22.21</u>
<u>A3.1</u>	<u>Control Joint Plan</u>	<u>1.17.23</u>
<u>A3.2</u>	<u>Exterior Elevations</u>	<u>10.25.22</u>
<u>A3.3</u>	<u>Exterior Elevations</u>	<u>10.25.22</u>
<u>A4.1</u>	<u>Enlarged Elevations</u>	<u>1.22.21</u>
<u>A4.2</u>	<u>Finish &amp; Door Schedules</u>	<u>1.17.23</u>
<u>A4.3</u>	<u>Window Details</u>	<u>10.25.22</u>
<u>A4.4</u>	<u>Teller Details</u>	<u>10.25.22</u>
<u>A5.1</u>	<u>Door Details &amp; Hardware</u>	<u>1.17.23</u>
<u>A5.2</u>	<u>Building Sections</u>	<u>1.17.23</u>
<u>A6.1</u>	<u>Section Details</u>	<u>1.22.21</u>
<u>A6.2</u>	<u>Interior Elevations</u>	<u>1.22.21</u>
<u>A6.3</u>	<u>Interior Elevations</u>	<u>1.22.21</u>
<u>A7.1</u>	<u>Courtroom Details</u>	<u>10.25.22</u>
<u>A7.2</u>	<u>Zip System Details</u>	<u>1.22.21</u>
<u>A7.3</u>	<u>Zip System Details</u>	<u>1.22.21</u>
<u>A7.4</u>	<u>Zip System Details</u>	<u>1.22.21</u>
<u>A7.5</u>	<u>Moving Partition Details</u>	<u>1.22.21</u>
<u>A7.6</u>	<u>Canopy Details</u>	<u>1.22.21</u>
<u>A7.7</u>	<u>Dumpster Enclosure</u>	<u>1.22.21</u>
<u>A7.8</u>	<u>Diaper Changing Station</u>	<u>1.22.21</u>
<u>S1.0</u>	<u>Conference Room Details</u>	<u>1.22.21</u>
<u>S2.0</u>	<u>General Notes</u>	<u>10.25.22</u>
<u>S3.0</u>	<u>Foundation Plan</u>	<u>1.22.21</u>
<u>S4.0</u>	<u>Framing Plan</u>	<u>1.22.21</u>
<u>S5.0</u>	<u>Roof Framing Plan</u>	<u>1.22.21</u>
<u>S6.0</u>	<u>Structural Details</u>	<u>1.22.21</u>
<u>M1.1</u>	<u>Structural Details</u>	<u>1.22.21</u>
<u>M1.2</u>	<u>Mechanical Floor Plan</u>	<u>4.10.23</u>
<u>M1.3</u>	<u>VRF &amp; Refrigerant Plan</u>	<u>1.22.21</u>
<u>M1.4</u>	<u>Kitchen Hood Specs</u>	<u>4.10.23</u>
<u>M1.5</u>	<u>Make Up Air Specs</u>	<u>1.17.23</u>
<u>M1.6</u>	<u>VRF Specs</u>	<u>1.22.21</u>
<u>M1.7</u>	<u>Mechanical Specs</u>	<u>1.17.23</u>
<u>M1.8</u>	<u>Mechanical Details</u>	<u>1.17.23</u>
<u>P1.1</u>	<u>UL Details</u>	<u>1.17.23</u>
<u>P1.2</u>	<u>Water Supply</u>	<u>1.22.21</u>
<u>P1.3</u>	<u>Waste Water Supply</u>	<u>1.22.21</u>
<u>P1.4</u>	<u>Supply/Waste Water</u>	<u>1.22.21</u>
<u>P1.5</u>	<u>Gas Supply Plan</u>	<u>1.22.21</u>
<u>P1.6</u>	<u>Plumbing Specs</u>	<u>10.25.22</u>
<u>E0.1</u>	<u>Plumbing Details</u>	<u>1.22.21</u>
<u>E1.0</u>	<u>Electrical Site Plan</u>	<u>1.17.23</u>
<u>E2.0</u>	<u>Lighting Plan</u>	<u>1.17.23</u>
<u>E2.1</u>	<u>Power &amp; Systems</u>	<u>1.17.23</u>
<u>E3.0</u>	<u>HVAC Power Plan</u>	<u>1.22.21</u>
<u>FP1.0</u>	<u>Electrical Legends</u>	<u>1.22.21</u>
<u>FP2.0</u>	<u>Fire Protection Plan</u>	<u>1.17.23</u>
<u>FP2.1</u>	<u>Fire Protection Details</u>	<u>1.17.23</u>
	<u>Fire Protection Site</u>	<u>1.17.23</u>

<u>0.01</u>	<u>Invitation To Bid</u>	<u>1.22.23</u>	<u>2</u>
<u>0.02</u>	<u>Instruction To Bidders</u>	<u>1.22.23</u>	<u>1</u>
<u>0.03</u>	<u>AIA A1.0 Sample</u>	<u>1.22.23</u>	<u>1</u>
<u>0.04</u>	<u>USDA Attachment A101</u>	<u>1.22.23</u>	<u>1</u>
<u>0.041</u>	<u>AIA A201 General Cond.</u>	<u>1.22.23</u>	<u>1</u>
<u>0.042</u>	<u>Cert. of Owner Attorney</u>	<u>1.22.23</u>	<u>1</u>
<u>0.05</u>	<u>Bid Form</u>	<u>1.22.23</u>	<u>2</u>
<u>0.051</u>	<u>AIAA310-2010BidBond</u>	<u>1.22.23</u>	<u>1</u>
<u>0.06</u>	<u>Iran Divestment Act</u>	<u>1.22.23</u>	<u>1</u>
<u>0.07</u>	<u>Drug Free Workplace Aff</u>	<u>1.22.23</u>	<u>1</u>
<u>0.071</u>	<u>Title VI Policy</u>	<u>1.22.23</u>	<u>1</u>
<u>0.072</u>	<u>Info. Collection Req.</u>	<u>1.22.23</u>	<u>1</u>
<u>0.073</u>	<u>Pol. of nondiscrimination</u>	<u>1.22.23</u>	<u>1</u>
<u>0.074</u>	<u>USDA comp. statement</u>	<u>1.22.23</u>	<u>1</u>
<u>0.075</u>	<u>USDA certification</u> <u>regarding debarment,</u> <u>suspension, ineligibility,</u> <u>&amp; voluntary</u> <u>exclusion-lower</u> <u>tiercovered transactions</u>		
<u>0.076</u>	<u>USDA Certification for</u> <u>Contracts, Grants and</u> <u>Loans</u>	<u>1.22.23</u>	<u>1</u>
<u>0.077</u>	<u>USDA notice of award</u>	<u>1.22.23</u>	<u>1</u>
<u>0.078</u>	<u>USDA rural development</u> <u>concurrence form</u>	<u>1.22.23</u>	<u>1</u>
<u>0.10</u>	<u>USDA notice to proceed</u>	<u>1.22.23</u>	<u>1</u>
<u>0.11</u>	<u>AIA G701-2017 change</u> <u>order form</u>	<u>1.22.23</u>	<u>1</u>
<u>0.12</u>	<u>AIA G701S-2017 change</u> <u>order contractor</u> <u>subcontractor form</u>		
<u>0.13</u>	<u>AIA-G704-2000</u>	<u>1.22.23</u>	<u>1</u>
<u>0.14</u>	<u>certificate of substantial</u> <u>completion</u>	<u>1.22.23</u>	<u>1</u>
<u>0.15</u>	<u>AIA-A312-2010 Payment</u> <u>Bond</u>	<u>1.22.23</u>	<u>1</u>
<u>0.16</u>	<u>AIA-G7065-1994</u>	<u>1.22.23</u>	<u>1</u>
<u>0.17</u>	<u>contractor's affidavit of</u> <u>payment of debts nd</u> <u>claims</u>	<u>1.22.23</u>	<u>1</u>
<u>0.18</u>	<u>USDA construction sign</u>	<u>1.22.23</u>	<u>1</u>
<u>0.19</u>	<u>USDA certificate of</u> <u>owner's attorney</u>	<u>1.22.23</u>	<u>1</u>
<u>1.00</u>	<u>Alternates</u>	<u>1.22.23</u>	<u>1</u>
<u>1.01</u>	<u>Summary of the work</u>	<u>1.22.23</u>	<u>1</u>
<u>1.02</u>	<u>Allowances</u>	<u>1.22.23</u>	<u>1</u>
<u>1.03</u>	<u>Contract modification</u> <u>procedures</u>	<u>1.22.23</u>	<u>3</u>
<u>1.04</u>	<u>Payment procedures</u>	<u>1.22.23</u>	<u>4</u>
<u>1.05</u>	<u>Submittal procedures</u>	<u>1.22.23</u>	<u>9</u>
<u>1.06</u>	<u>Quality Requirements</u>	<u>1.22.23</u>	<u>6</u>
<u>1.07</u>	<u>References</u>	<u>1.22.23</u>	<u>2</u>
<u>1.08</u>	<u>Temporary facilities &amp;</u> <u>controls</u>	<u>1.22.23</u>	<u>3</u>

<u>1.09</u>	<u>Product requirements</u>	<u>1.22.23</u>	<u>7</u>
<u>1.10</u>	<u>Execution requirements</u>	<u>1.22.23</u>	<u>6</u>
<u>1.11</u>	<u>Cutting and patching</u>	<u>1.22.23</u>	<u>4</u>
<u>1.12</u>	<u>Closeout procedures</u>	<u>1.22.23</u>	<u>7</u>
<u>1.13</u>	<u>Weather delays</u>	<u>1.22.23</u>	<u>3</u>
<u>Appendices A thru W</u>			

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<u>Addendum 1</u>	<u>8.7.23</u>	<u>14</u>
<u>Addendum 2</u>	<u>8.14.23</u>	<u>9</u>
<u>Addendum 3</u>	<u>8.16.23</u>	<u>6</u>
<u>Addendum 4</u>	<u>8.17.23</u>	<u>3</u>

...

[ NA ] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:

...

[ NA ] The Sustainability Plan:

...

[ X ] Supplementary and other Conditions of the Contract:

...

<u>RD Instruction 1942-A</u>	<u>Guide 27-Attachment 3</u>	<u>4.12.22</u>	<u>5</u>
<u>RD Instruction 1942-A</u>	<u>Guide 27-Attachment 4</u>	<u>4.12.22</u>	<u>11</u>

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J.T. Smith Honorable Mayor of Ashland City

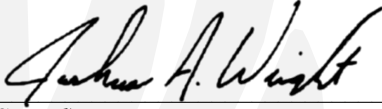
Steve Hannon Director of Operations



# **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, Joshua Wright, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:48:42 ET on 10/18/2023 under Order No. 4104241688 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Architect of Record

(Title)

10.18.2023

(Dated)



# AIA® Document A101® – 2017 Exhibit A

## Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the twenty fifth day of October in the year two thousand twenty three (In words, indicate day, month and year.)

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

A New City Hall for The Town of Ashland City, Tennessee  
405 North Main Street, Ashland City, Tennessee

**THE OWNER:**  
(Name, legal status and address)

The Town of Ashland City  
The Honorable J.T. Smith, Mayor  
233 Tennessee Waltz Parkway  
Ashland City, Tennessee 37015

**THE CONTRACTOR:**  
(Name, legal status and address)

Solomon Builders  
4539 Trousdale Drive  
Nashville, Tennessee 37204

### TABLE OF ARTICLES

- A.1 GENERAL
- A.2 OWNER'S INSURANCE
- A.3 CONTRACTOR'S INSURANCE AND BONDS
- A.4 SPECIAL TERMS AND CONDITIONS

#### ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

#### ARTICLE A.2 OWNER'S INSURANCE

##### § A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

#### ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Document A201®–2017, General Conditions of the Contract for Construction. Article 11 of A201®–2017 contains additional insurance provisions.

**§ A.2.2 Liability Insurance**

The Owner shall be responsible for purchasing and maintaining the Owner’s usual general liability insurance.

**§ A.2.3 Required Property Insurance**

**§ A.2.3.1** Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder’s risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner’s property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

**§ A.2.3.1.1 Causes of Loss.** The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

*(Indicate below the cause of loss and any applicable sub-limit.)*

Causes of Loss	Sub-Limit
----------------	-----------

**§ A.2.3.1.2 Specific Required Coverages.** The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect’s and Contractor’s services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

*(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)*

Coverage	Sub-Limit
----------	-----------

**§ A.2.3.1.3** Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

**§ A.2.3.1.4 Deductibles and Self-Insured Retentions.** If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

**§ A.2.3.2 Occupancy or Use Prior to Substantial Completion.** The Owner’s occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

**§ A.2.3.3 Insurance for Existing Structures**

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

Init.

**§ A.2.4 Optional Extended Property Insurance.**

The Owner shall purchase and maintain the insurance selected and described below.

*(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)*

- § A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.
  
- § A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.
  
- § A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.
  
- § A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.
  
- § A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.
  
- § A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.
  
- § A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

**§ A.2.5 Other Optional Insurance.**

The Owner shall purchase and maintain the insurance selected below.

Init.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[ ] § A.2.5.1 **Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. (Indicate applicable limits of coverage or other conditions in the fill point below.)

[ ] § A.2.5.2 **Other Insurance**  
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage

Limits

### ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

#### § A.3.1 General

§ A.3.1.1 **Certificates of Insurance.** The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 **Deductibles and Self-Insured Retentions.** The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 **Additional Insured Obligations.** To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, 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 as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

#### § A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:  
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

#### § A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than (\$ ) each occurrence, (\$ ) general aggregate, and (\$ ) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;

Init.

- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than (\$ ) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ A.3.2.5 Workers' Compensation at statutory limits.

§ A.3.2.6 Employers' Liability with policy limits not less than (\$ ) each accident, (\$ ) each employee, and (\$ ) policy limit.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than (\$ ) per claim and (\$ ) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than (\$ ) per claim and (\$ ) in the aggregate.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than (\$ ) per claim and (\$ ) in the aggregate.

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than (\$ ) per claim and (\$ ) in the aggregate.

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than (\$ ) per claim and (\$ ) in the aggregate.

**§ A.3.3 Contractor's Other Insurance Coverage**

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

*(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)*

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.

*(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)*

- [ ] § A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:  
*(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*
- [ ] § A.3.3.2.2 **Railroad Protective Liability Insurance**, with policy limits of not less than (\$ ) per claim and (\$ ) in the aggregate, for Work within fifty (50) feet of railroad property.
- [ ] § A.3.3.2.3 **Asbestos Abatement Liability Insurance**, with policy limits of not less than (\$ ) per claim and (\$ ) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.
- [ ] § A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.
- [ ] § A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.
- [ ] § A.3.3.2.6 **Other Insurance**  
*(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)*

**Coverage**

**Limits**

**§ A.3.4 Performance Bond and Payment Bond**

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

*(Specify type and penal sum of bonds.)*

Type	Penal Sum (\$0.00)
Payment Bond	\$9,462,523.00
Performance Bond	\$9,462,523.00

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

**ARTICLE A.4 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

Init.



# Additions and Deletions Report for AIA® Document A101® – 2017 Exhibit A

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:53:34 ET on 10/18/2023.

## PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the twenty fifth day of October in the year two thousand twenty three

...

A New City Hall for The Town of Ashland City, Tennessee  
405 North Main Street, Ashland City, Tennessee

...

The Town of Ashland City  
The Honorable J.T. Smith, Mayor  
233 Tennessee Waltz Parkway  
Ashland City, Tennessee 37015

...

Solomon Builders  
4539 Trousdale Drive  
Nashville, Tennessee 37204

## PAGE 7

Payment Bond	<u>\$9,462,523.00</u>
Performance Bond	<u>\$9,462,523.00</u>

ATTACHMENT TO AIA DOCUMENT A101-2017, *Standard Form of Agreement Between Owner and Contractor*

The provisions of this Attachment shall delete, modify and supplement the provisions contained in the "Standard Form of Agreement Between Owner and Contractor," AIA Document A101-2017 Edition. The provisions contained in this attachment shall supersede any conflicting provisions of the AIA Document.

ARTICLE 3, DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

Delete paragraph 3.1 and substitute the following:

3.1 The date of commencement shall be contained in the Notice to Proceed.

Replace paragraph 3.3.3 with the following:

If the work is not substantially complete on or before this date, or within this period of time, or extension thereof granted by the Owner, damage will be sustained by the Owner and that it is and will be impracticable and extremely difficult to fix the actual damage which the Owner will sustain in the event of and by reason of such delays. The Contractor shall pay to the Owner liquidated damages in the sum of \$ 500.00 for each calendar day of delay. Any sums that may be due the Owner as liquidated damages may be deducted from any monies due or to become due the Contractor under the Contract or may be collected from the Contractor's surety.

ARTICLE 5, PAYMENTS

Insert "ten" and "10" in the appropriate spaces in subparagraph 5.1.3.

Delete the following from clause 5.1.6.1.2:

(or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing)

(00-00-00) PN 000

Insert the following sentences in subparagraph 5.1.7.1:

The amount retained shall be 10% of the value of Work until 50% of the Work has been completed or a withholding of equal or greater value, such as, 5% for the full duration of the project. If 10% is held, at 50% completion, further partial payments shall be made in full to the Contractor and no additional amounts may be retained unless the Architect certifies that the Work is not proceeding satisfactorily, but amounts previously retained shall not be paid to the Contractor. At 50% completion or any time thereafter when the progress of the Work is not satisfactory, additional amounts may be retained, but in no event shall the total retainage be more than 10% of the value of Work completed.

#### ARTICLE 8, MISCELLANEOUS PROVISIONS

Add the following subparagraph to paragraph 8.7:

8.7.1 This Agreement shall not become effective until concurred in writing by the Agency. Such concurrence shall be evidenced by the signature of a duly authorized representative of the Agency in the space provided at the end of this Attachment to the Agreement. The concurrence so evidenced by the Agency shall in no way commit the Agency to render financial assistance to the Owner and is without liability to the Agency for any payment thereunder, but in the event such assistance is provided, the concurrence shall signify the provisions of this Agreement are consistent with Agency requirements.

#### ARTICLE 9, ENUMERATION OF CONTRACT DOCUMENTS

The following Documents should be referenced, if applicable:

Subparagraph 9.1.3:

Attachment to the *Standard Form of Agreement Between Owner and Contractor* (this Attachment)  
*General Conditions of the Contract for Construction*, AIA A201-2017  
Attachment to the *General Conditions of the Contract for Construction* (RD Instruction 1942-A, Guide 27, Attachment 4)  
Special Conditions

Subparagraph 9.1.7:

Invitation for Bids (Form RD 1924-5)  
*Instructions to Bidders*, AIA A701-1997  
Attachment to the *Instructions to Bidders* (RD Instruction  
1924-A, Guide 27, Attachment 2)  
Bid Form  
Bid Bond  
Compliance Statement (Form RD 400-6)  
Payment Bond  
Performance Bond  
Certification Regarding Debarment, Suspension,  
Ineligibility and Voluntary Exclusion - Lower Tier  
Covered Transactions (Form AD 1048)  
Disclosure of Lobbying Activities (SF-LLL)  
Certification for Contracts, Grants and Loans (RD  
Instruction 1940-Q, Exhibit A-1)

Delete the signature block on page 7 of this Agreement, and substitute  
the block on the following page:

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below:

OWNER:

ATTEST: \_\_\_\_\_  
Type Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

By \_\_\_\_\_  
Type Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

CONTRACTOR:

ATTEST: \_\_\_\_\_  
Type Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

By \_\_\_\_\_  
Type Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

AGENCY CONCURRENCE:

By \_\_\_\_\_  
Type Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

The concurrence so evidenced by the Agency shall in no way commit the Agency to render financial assistance to the Owner and is without liability to the Agency for any payment hereunder, but in the event such assistance is provided, the concurrence shall signify the provisions of this Agreement are consistent with Agency requirements.



# AIA® Document A201® – 2017

## General Conditions of the Contract for Construction

**for the following PROJECT:**

*(Name and location or address)*

A New City Hall for The Town of Ashland City, Tennessee  
405 North Main Street, Ashland City, Tennessee

**THE OWNER:**

*(Name, legal status and address)*

The Town of Ashland City  
233 Tennessee Waltz Parkway  
Ashland City, Tennessee

**THE ARCHITECT:**

*(Name, legal status and address)*

Joshua A. Wright Architect  
8061 Highway 41a  
Cedar Hill, Tennessee 37032

**TABLE OF ARTICLES**

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- 2 OWNER
- 3 CONTRACTOR
- 4 ARCHITECT
- 5 SUBCONTRACTORS
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- 11 INSURANCE AND BONDS
- 12 UNCOVERING AND CORRECTION OF WORK
- 13 MISCELLANEOUS PROVISIONS

**ADDITIONS AND DELETIONS:**

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

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

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

Init.

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14 TERMINATION OR SUSPENSION OF THE CONTRACT

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## **ARTICLE 1 GENERAL PROVISIONS**

### **§ 1.1 Basic Definitions**

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

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

#### **§ 1.1.2 The Contract**

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

#### **§ 1.1.3 The Work**

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

#### **§ 1.1.4 The Project**

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

#### **§ 1.1.5 The Drawings**

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

#### **§ 1.1.6 The Specifications**

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

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

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

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

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

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

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

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

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

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

### § 1.3 Capitalization

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

### § 1.4 Interpretation

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

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

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

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

### § 1.6 Notice

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

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

### § 1.7 Digital Data Use and Transmission

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

### § 1.8 Building Information Models Use and Reliance

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

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

## **ARTICLE 2 OWNER**

### **§ 2.1 General**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### ARTICLE 3 CONTRACTOR

#### § 3.1 General

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

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

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

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

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

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

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

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

### § 3.3 Supervision and Construction Procedures

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

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

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

### § 3.4 Labor and Materials

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

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

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

### § 3.5 Warranty

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

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

### § 3.6 Taxes

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

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

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

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

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

### § 3.7.4 Concealed or Unknown Conditions

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

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

### § 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

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

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

### § 3.9 Superintendent

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

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

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

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

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

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

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

### § 3.11 Documents and Samples at the Site

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

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

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

## ARTICLE 4 ARCHITECT

### § 4.1 General

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

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

### § 4.2 Administration of the Contract

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

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

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

### § 4.2.4 Communications

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



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

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

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

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

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

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

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

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

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

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

## ARTICLE 5 SUBCONTRACTORS

### § 5.1 Definitions

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

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

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

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

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

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

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

### § 5.3 Subcontractual Relations

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

### § 5.4 Contingent Assignment of Subcontracts

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

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

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

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

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

## ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

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

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

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

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

### § 6.2 Mutual Responsibility

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

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

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

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

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

### § 6.3 Owner's Right to Clean Up

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

## ARTICLE 7 CHANGES IN THE WORK

### § 7.1 General

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

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

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

### § 7.2 Change Orders

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

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

### § 7.3 Construction Change Directives

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

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

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

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

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

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

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

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

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

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

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

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

#### § 7.4 Minor Changes in the Work

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

### ARTICLE 8 TIME

#### § 8.1 Definitions

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

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

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

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

## § 8.2 Progress and Completion

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

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

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

## § 8.3 Delays and Extensions of Time

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

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

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

## ARTICLE 9 PAYMENTS AND COMPLETION

### § 9.1 Contract Sum

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

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

### § 9.2 Schedule of Values

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

### § 9.3 Applications for Payment

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

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

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

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

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

#### § 9.4 Certificates for Payment

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

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### § 9.5 Decisions to Withhold Certification

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

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

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- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

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

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

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

#### § 9.6 Progress Payments

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

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

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

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

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

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

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

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

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## § 9.7 Failure of Payment

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

## § 9.8 Substantial Completion

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

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

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

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

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

## § 9.9 Partial Occupancy or Use

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

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

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

### § 9.10 Final Completion and Final Payment

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

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

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

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

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

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

## ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

### § 10.1 Safety Precautions and Programs

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

### § 10.2 Safety of Persons and Property

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

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

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

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

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

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

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

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

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

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

#### § 10.3 Hazardous Materials and Substances

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

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

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

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

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

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

#### **§ 10.4 Emergencies**

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

### **ARTICLE 11 INSURANCE AND BONDS**

#### **§ 11.1 Contractor's Insurance and Bonds**

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

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

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

**§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

## § 11.2 Owner's Insurance

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

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

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

## § 11.3 Waivers of Subrogation

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

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

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

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

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

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

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

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

#### **§ 12.1 Uncovering of Work**

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

**§ 12.1.2** If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

#### **§ 12.2 Correction of Work**

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

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

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

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

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

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

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

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

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

### § 12.3 Acceptance of Nonconforming Work

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

## ARTICLE 13 MISCELLANEOUS PROVISIONS

### § 13.1 Governing Law

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

### § 13.2 Successors and Assigns

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

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

### § 13.3 Rights and Remedies

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

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

### § 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

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approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

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

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

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

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

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

### § 13.5 Interest

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

## ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

### § 14.1 Termination by the Contractor

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

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

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

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



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

#### § 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

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

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

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

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

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

#### § 14.3 Suspension by the Owner for Convenience

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

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

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

#### § 14.4 Termination by the Owner for Convenience

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

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

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

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

## ARTICLE 15 CLAIMS AND DISPUTES

### § 15.1 Claims

#### § 15.1.1 Definition

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

#### § 15.1.2 Time Limits on Claims

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

#### § 15.1.3 Notice of Claims

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

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

#### § 15.1.4 Continuing Contract Performance

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

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

#### § 15.1.5 Claims for Additional Cost

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

#### § 15.1.6 Claims for Additional Time

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

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

### § 15.1.7 Waiver of Claims for Consequential Damages

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

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

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

### § 15.2 Initial Decision

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

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

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

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

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

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

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

Init.

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User Notes:

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

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

### § 15.3 Mediation

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

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

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

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

### § 15.4 Arbitration

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

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

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

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

**§ 15.4.4 Consolidation or Joinder**

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

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

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



# **Additions and Deletions Report for** **AIA® Document A201® – 2017**

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:09:58 ET on 10/18/2023.

## **PAGE 1**

A New City Hall for The Town of Ashland City, Tennessee  
405 North Main Street, Ashland City, Tennessee

...

The Town of Ashland City  
233 Tennessee Waltz Parkway  
Ashland City, Tennessee

...

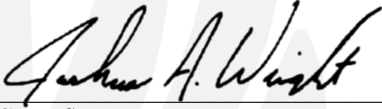
*(Name, legal status and address)*

Joshua A. Wright Architect  
8061 Highway 41a  
Cedar Hill, Tennessee 37032

# Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, \_\_\_\_\_, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:09:58 ET on 10/18/2023 under Order No. 4104241688 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.



---

(Signed)

Architect of Record

---

(Title)

10.18.2023

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(Dated)

ATTACHMENT TO AIA DOCUMENT A201-2017, *General Conditions of the Contract for Construction*

The provisions of this attachment shall delete, modify and supplement the provisions contained in the "*General Conditions of the Contract for Construction*," AIA Document A201-2017 Edition. The provisions contained in this attachment will supersede any conflicting provisions of the AIA Document. The term "Agency," as used in this Attachment, shall mean the United States of America, acting through the United States Department of Agriculture.

ARTICLE 1, GENERAL PROVISIONS

Add the following subparagraph:

1.2.4 Concurrence of the Contract by the Agency is required before it is effective.

ARTICLE 2, OWNER

Delete subparagraph 2.3.6 and substitute the following:

2.3.6 The Contractor will be furnished, free of charge, one digital copy of the Drawings and Projects Manuals necessary for execution of the Work. Additional copies will be available from the Architect at the cost of reproduction and handling.

ARTICLE 4, ARCHITECT

Add the following to subparagraph 4.1.1:

The term "Architect" means the Architect, or the Engineer when the nature of the work is within the authority granted engineers by the State licensure law, or an authorized representative of the Architect or Engineer.

ARTICLE 5, SUBCONTRACTORS

Add the following to subparagraph 5.2.2:

The Contractor shall not contract with any party who is suspended or debarred by any Federal government agency from participating in Federally assisted construction projects.

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ARTICLE 7, CHANGES IN THE WORK

Delete the words ", Construction Change Directive" from subparagraph 7.1.1.

Insert the words ", Agency " after the word "Owner," and delete the words "A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor" in subparagraph 7.1.2.

Delete the words "Construction Change Directive" from subparagraph 7.1.3.

Delete subparagraph 7.2.1 and substitute the following:

7.2.1 A Change Order is a written order to the Contractor utilizing Form RD 1924-7, "Contract Change Order," or AIA G-701 signed by the Owner, Architect, Contractor, and the Agency representative. It is issued after the execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. The Contractor's signing of a Change Order indicates complete agreement therein.

Add subparagraph 7.2.2:

7.2.2 Methods used in determining adjustments to the Contract Sum may include any of the following:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluating.
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon.

Add the following sentence to paragraph 7.3.1: "A Construction Change Directive may be used only for a change in response to an emergency as described in paragraph 10.4.

Delete subparagraph 7.3.2.

Add the following, where appropriate, to 7.3.3 through 7.3.10: "When the use of a Construction Change Directive is justified"

ARTICLE 8, TIME

Add the following subparagraphs:

8.2.4 The Notice to Proceed shall be issued within twenty (20) calendar days of the execution of the Agreement by the Owner. Should there be reasons why the Notice to Proceed cannot be issued within such period, the time may be extended by mutual agreement of the Owner and Contractor, with the concurrence of the Agency. If the Notice to Proceed has not been issued within the twenty (20) calendar day period or within the period mutually agreed, the Contractor may terminate the Agreement without further liability on the part of either party.

8.3.4 As outlined in Article 3 of the Agreement, the Contractor agrees to pay liquidated damages to the Owner for each calendar day the Contractor shall be in default.

ARTICLE 9, PAYMENTS AND COMPLETION

Delete clause 9.3.1.1 and substitute the following:

9.3.1.1 Work performed and materials supplied under a Change Order may be included for payment only after the Change Order has been approved by all appropriate parties, including the Agency.

Add the words ", using AIA Document 702, 'Application and Certificate for Payment' or Form RD 1924-18, 'Partial Payment Estimate'," after "Certificate for Payment" in subparagraph 9.4.1.

Add the following subparagraph:

9.6.9 No progress payments will be made that deplete the retainage, nor place in escrow any funds that are required for retainage, nor invest the retainage for the benefit of the Contractor. Retainage will not be adjusted until after construction is substantially complete.

Replace the word "seven" with the words "fifteen (15)" in the first sentence, second line of subparagraph 9.7.

Delete subparagraph 9.8.5, after the first sentence, and substitute the following:

9.8.5 When the Work has been substantially completed, except for Work which cannot be completed because of weather conditions, lack of materials or other reasons, which, in the judgment of the Owner, are valid reasons for non-completion, the Owner may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the Work still to be completed. Provide a copy of the Certificate to the Agency.

Delete subparagraphs 9.9.1 and add the following:

9.9.1 The Contractor agrees to the use and occupancy of a portion or unit of the Project before formal acceptance by the Owner under the following conditions:

- .1 A "Certificate of Substantial Completion" shall be prepared and executed as provided in subparagraph 9.8.4, except that when, in the opinion of the Architect, the Contractor is chargeable with unwarranted delay in completing the Work or other Contract requirements, the signature of the Contractor will not be required. The Certificate of Substantial Completion shall be accompanied by a written endorsement of the Contractor's insurance carrier and surety permitting occupancy by the Owner during the remaining period of the Project Work. Occupancy and use by the Owner shall not commence until authorized by public authorities having jurisdiction over the Work.
- .2 Occupancy by the Owner shall not be construed by the Contractor as being an acceptance of that part of the Project to be occupied.
- .3 The Contractor shall not be held responsible for any damage to the occupied part of the Project resulting from the Owner's occupancy.
- .4 Occupancy by the Owner shall not be deemed to constitute a waiver of existing claims in behalf of the Owner or Contractor against each other.
- .5 If the Project consists of more than one building, and one of the buildings is to be

occupied, the Owner, prior to occupancy of that building, shall secure permanent property insurance on the building to be occupied and necessary permits which may be required for use and occupancy.

Add to subparagraph 9.9.3: Use and occupancy by the Owner prior to Project acceptance does not relieve the Contractor of responsibility to maintain all insurance and bonds required of the Contractor under the Contract Documents until the Project is completed and accepted by the Owner.

#### ARTICLE 11, INSURANCE AND BONDS

Replace the words "the Contract Documents" with the words "subparagraph 11.1.1" in the first sentence of subparagraph 11.1.2.

Add the following subparagraph:

11.1.1. Insurance shall be:

- .1 Written with a limit of liability of not less than \$500,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than \$500,000 aggregate for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$200,000 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than \$200,000 aggregate for any such damage sustained by two or more persons in any one accident, or
- .2 Written with a combined bodily injury and damage liability of not less than \$700,000 per occurrence; and with an aggregate of not less than \$700,000 per occurrence.

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Add the following sentence to the end of subparagraph 11.3.1:

The provisions of this subparagraph shall apply to the Contractor if the Contractor purchases and maintains said insurance coverage.

Delete subparagraph 11.1.2 and substitute the following:

11.1.2 The Contractor shall furnish the Owner bonds covering faithful performance of the Contract and payment of obligations arising thereunder within ten (10) calendar days after receipt of the Notice of Award. The surety company executing the bonds must hold a certificate of authority as an acceptable surety on Federal bonds as listed in Treasury Circular 570, and be authorized to transact business in the State where the Project is located. The bonds (using the forms included in the Bidding Documents) shall each be equal to the amount of the Contract Sum. The cost of these bonds shall be included in the Contract Sum

Add the following subparagraphs:

11.1.3.1 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.

11.1.3.2 If at any time a surety on any such bond is declared bankrupt or loses its right to do business in the State in which the work is to be performed or is removed from the list of surety companies accepted on Federal Bonds, the Contractor shall within ten (10) calendar days after notice from the Owner to do so, substitute an acceptable bond in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums of such bond shall be paid by any Contractor. No further payment shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable bond to the Owner.

ARTICLE 13, MISCELLANEOUS PROVISIONS

Add the following paragraphs:

13.6 LANDS AND RIGHTS-OF WAY

13.6.1 Prior to the start of construction, the Owner shall obtain all lands and rights-of-way necessary for the execution and completion of work to be performed under this contract.

13.7 EQUAL OPPORTUNITY REQUIREMENTS

Non-discrimination in Employment by Federally Assisted Construction Contractors, by Executive Order 11246.

13.7.1 This section summarizes Executive Order 11246, which prohibits employment discrimination and requires employers holding non-exempt Federal contracts and subcontracts and federally-assisted construction contracts and subcontracts in excess of \$10,000 to take affirmative action to ensure equal employment opportunity without regard to race, color, religion, sex, or national origin. The Executive Order requires, as a condition for the approval of any federally assisted construction contract, that the applicant incorporate nondiscrimination and affirmative action clauses into its non-exempt federally assisted construction contracts.

13.7.2 Executive Order 11246, is administered and enforced by the Office of Federal Contract Compliance Programs (OFCCP), an agency in the U.S. Department of Labor's Employment Standards Administration. OFCCP has issued regulations at 41 CFR chapter 60 implementing the Executive Order. The regulations at 41 CFR part 60-4 establish the procedures which the Agency, as an administering agency, must follow when making grants, contracts, loans, insurance or guarantees involving federally assisted construction which is not exempt from the requirements of Executive Order 11246. The regulations which apply to Federal or federally assisted construction contractors also are published at 41 CFR part 60-4.

13.7.3 OFCCP has established numerical goals for minority and female utilization in construction work. The goals are expressed in percentage terms for the contractor's aggregate workforce in each trade. OFCCP has set goals for minority utilization based on the percentage of minorities in the civilian labor force in the relevant area. There is

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a single nationwide goal of 6.9 percent for utilization of women. The goals apply to all construction work in the covered geographic area, whether or not it is federal, federally assisted or non-federal. A notice advises bidders of the applicable goals for the area where the project is to be located.

13.7.4 Application. This section applies to all of a construction contractor's or subcontractor's employees who are engaged in on-site construction including those construction employees who work on a non-Federal or non-Federally assisted construction site.

13.7.4.1 Agency officials will notify the appropriate Regional Director of OFCCP that an Agency financed construction contract has been awarded, and that the equal opportunity clauses are included in the contract documents.

13.7.4.2 The Regional Director, OFCCP-DOL, will enforce the non-discrimination requirements of Executive Order 11246.

13.7.5 The prospective contractor or subcontractor must comply with the Immigration Reform and Control Act of 1986, by completing and retaining Form I-9, "Employment Eligibility Verification," for employees hired. This form is available from the Immigration and Naturalization Service, and Department of Justice.

13.7.6 The prospective contractor or subcontractor must submit Form RD 400-6, "Compliance Statement," to the applicant and an Agency official as part of the bid package, prior to any contract bid negotiations and comply with the Executive Order 11246 as stated in the contract documents.

### 13.8 STATUTES

13.8.1 The Contractor and each Subcontractor shall comply with the following statutes (and with regulations issued pursuant thereto, which are incorporated herein by reference):

13.8.1.1 Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). This Act provides that each Contractor shall be prohibited from inducing, by any means, any person in connection with construction to give up any part of the compensation to which the person is otherwise entitled.

13.8.1.2 Clean Air Act (42 U.S.C. 7414), section 114, and Water Pollution Control Act (33 U.S.C. 1813), section 308. Under Executive Order 11738 and Environmental Protection Agency (EPA) regulations 40 C.F.R. part 15, all Contracts in excess of \$100,000 are required to comply with these Acts. The Acts require the Contractor to:

- .1 Notify the Owner of the receipt of any communication from EPA indicating that a facility to be utilized in the performance of the Contract is under consideration to be listed on the EPA list of Violating Facilities.
- .2 Certify that any facility to be utilized in the performance of any nonexempt Contractor or Subcontractor is not listed on the EPA list of Violating Facilities as of the date of the Contract Award.
- .3 Include or cause to be included the above criteria and requirements of paragraphs .1 and .2 in every nonexempt subcontract, and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

13.8.1.3 Restrictions on Lobbying (Public Law 101-121, section 319) as supplemented in Department of Agriculture regulations (7 CFR part 3018). This statute applies to the recipients of contracts or subcontracts that exceed \$100,000 at any tier under a Federal loan that exceeds \$150,000 or a Federal grant that exceeds \$100,000. If applicable, the Contractor must complete a certification form on lobbying activities related to the specific Federal loan or grant that is a funding source for this contract. The certification and disclosure forms shall be provided by the Owner.

### 13.9 RECORDS

13.9.1 If the Contract is based on a negotiated Bid, the Owner, the Agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Contractor which are pertinent to a specific Federal loan program for the purpose of making audit, examination, excerpts, and transcriptions. The Contractor shall maintain records for at least three years after the Owner makes final payment and all other pending matters are closed.

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### 13.10 ENVIRONMENTAL REQUIREMENTS

13.10.1 Mitigation Measures - The contractor shall comply with applicable mitigation measures established in the environmental assessment for the project. These may be obtained from the Agency representative.

13.10.2 The Contractor, when constructing a Project involving trenching, excavating, or other earth moving activity, shall comply with the following environmental constraints:

13.10.2.1 Endangered Species, Historic Preservation, Human Remains and Cultural Items, Hazardous Materials, and Paleontology - Any excavation or other earth moving activity by the Contractor that provides evidence of the presence of endangered or threatened species or their critical habitat, uncovers a historical or archaeological artifact, human remains or cultural items, hazardous materials, a fossil or other paleontological materials will require the Contractor to:

- .1 Temporarily stop work;
- .2 Provide immediate notice to the Architect and the Agency, and in the case of potentially hazardous materials, provide immediate notice to local first responders and take such measures as necessary to protect the public and workers;
- .3 Take reasonable measures as necessary to protect the discovered materials or protected resource;
- .4 Abide by such direction as provided by the Agency, or Agencies responsible for resource protection or hazardous materials management; and
- .5 Resume work only upon notice from the Architect and the Agency.

13.10.3 Lead-Based Paint - The Contractor and Owner shall comply with applicable Agency requirements of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821), and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851) for rehabilitation work on residential property built prior to 1978.

13.11 DEBARMENT AND SUSPENSION

13.11.1 The Contractor shall comply with the requirements of 7 CFR part 3017, which pertains to the debarment or suspension of a person from participating in a Federal program or activity.

ARTICLE 15 CLAIMS AND DISPUTES

Add the words "may be" after "on the parties but" in the last sentence of subparagraph 15.2.5.

Replace the word "shall" with the word "may" in the first sentence, first occurrence of subparagraph 15.3.2

Add the subparagraph: 15.4.1.2 The arbitrators will select a hearing location as close to the Owner's locale as possible.

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# SURPLUS PROPERTY NOMINATION FORM

TOWN OF ASHLAND CITY, TENNESSEE



Department: FIRE DEPARTMENT

The following items are hereby nominated for designation as surplus city property pursuant to Resolution 2018-05.

Item: 10 - METAL LOCKERS

Description: DONATED TO US 20 YEARS AGO. USED AT THE OLD STATION DO NOT NEED AT THE NEW STATION

Serial Number: \_\_\_\_\_

Age: 20 Asset Number: N/A

Estimated Remaining Useful Life (Years): 5-10 YEARS

Purchase Price: Ø Current Estimated Value: Ø

Reason for making the nomination: DONATING TO THE CHARLOTTE, TN CITY FIRE DEPT. IN DICKSON COUNTY

Signature: JM Wah

Date: 9-21-2023

# SURPLUS PROPERTY NOMINATION FORM

TOWN OF ASHLAND CITY, TENNESSEE



Department: Senior Center

The following items are hereby nominated for designation as surplus city property pursuant to Resolution 2018-05.

Item: Rolling Office Chairs (15)

Description: Used Rolling Office Chairs - black

Serial Number: N/A

Age: 5+ years Asset Number: \_\_\_\_\_

Estimated Remaining Useful Life (Years): 10+ years ?

Purchase Price: ? Current Estimated Value: \$250

Reason for making the nomination: These chairs were bought used or perhaps given to the center. We used them for about 2 years. We had several members to almost fall when sitting because the chair rolled back. We did have one member to fall and hit the floor. I put the chairs in storage after that incident. We have other non-rolling chairs that we are using, so we have no use for these chairs.

Signature: Gena L. Ratto Date: 10/2/23