

**MOUNTAIN BROOK CITY COUNCIL  
PRE-MEETING DISCUSSION  
MAY 22, 2023**

---

[As a convenience, members of the public were invited to listen and observe in the public meeting by Internet video conference. There were no virtual attendees at the meeting.]

The City Council of the City of Mountain Brook, Alabama met informally in-person at 6:00 p.m. on the 22<sup>nd</sup> day of May, 2023 (others were allowed to listen to the meeting by way of Internet video conference). Council President Pro Tempore Pritchard called the pre-meeting to order and the roll was called with the following results:

Present: William S. Pritchard III, Council President Pro Tempore  
Lloyd C. Shelton  
Gerald A. Garner  
Graham L. Smith  
Stewart Welch III, Mayor

Absent: Virginia C. Smith, Council President

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and City Clerk Heather Richards.

**1. AGENDA**

1. Lindsay Gardner to provide an update on the restoration of the library building and alternates for continuing services

Lindsay Gardner-O'Neal Library Director

- Thanked the city council and city departments for its support
- The water mitigation is complete
- There will be a lot of reconstruction
- Working on scope of reconstruction that will be put into bid document form to be bid out
- In meantime-looking at alternate location to open (with limited services)
- Will have exact opening date soon
- At alternate location the focus is on the summer reading program, children's location, and a small collection of books for people to browse
- Will use returned books that were returned to other libraries as the book collection at alternate location
- Prefer citizens to hold onto their books and not to return them to other locations

2. CDBG Cooperation Agreement with Jefferson County

Sam Gaston-City Manager

- Mountain Brook is part of a consortium for the CDBG program
- Adding our population to the program to the consortium, they are able to get more money
- This is an automatic renewal unless the council objects
- Recommended to the council to remain in the CDBG program
- There is no cost to be in the program
- (The council was in favor of being automatically renewed into the CDBG program, no action was needed)

3. Building Permit revisions for large residential projects

Whit Colvin-City Attorney

- 3 sections of the building (city) code that they are looking at modifying
- Modifying provisions already in place with regard to commercial developments, development of subdivisions, and developments in the village that required reclamation bond
- A reclamation bond-if the project stops, the bond is there to return the property to grass and trees
- The bond was already in place for certain commercial development, wanted to extend it to larger residential projects with construction cost of \$3,000,000 or over
- The other sections are designed to define all projects within the city to clarify items
- These revisions are to ensure projects are done in a timely manner and when not, increase costs for renewals to incentivize individuals to finish project

Billy Pritchard-Council President Pro Tempore

- Inquired if there were any comments from builders and architects regarding the changes

Sam Gaston-City Manager

- Received about 5 comments that were positive

Whit Colvin

- The revisions are designed to be a safety net and the hope is it will not have to be used
- Will have the ordinance ready for the next council meeting

4. Conditional Use at 7 Office Park Circle for CB&S Bank

Dana Hazen-Director of Planning, Building, and Sustainability

- The location is at 7 Office Park Circle (previously Southern States Bank)
- Zoned local business
- Due to it being zoned local business, a conditional use is required
- There is no street parking; therefore, it will not impact street parking
- Applicant anticipates 15-20 employees
- Have 28 on-site parking spaces

Tim Alford-Facility Director and Property Manager of CB&S Bank

- Wants to relocate office to Mountain Brook from Shades Creek
- Entered into a lease subject to council approval
- Put 15-20 employees in applicant letter; however, 10-12 would be more accurate
- 28 parking spaces is more than ample for what is needed
- Plan is to install an interactive teller machine with a video teller

Billy Pritchard

- Item added to the formal agenda (Resolution No. 2023-086)

5. Review of the other matters to be considered at the formal (7:00p.m.) meeting

**2. EXECUTIVE SESSION**

Council President Pro Tempore Pritchard made a motion that the City Council convenes in executive session to discuss a matter of litigation and that the City Council shall reconvene upon

conclusion of the executive session. The City Attorney certified that the subject matters were allowed to be discussed in executive pursuant to Alabama Law. The motion was seconded by Council Member Graham Smith. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: William S. Pritchard III  
Gerald A. Garner  
Graham L. Smith  
Lloyd C. Shelton

Nays: None

**3. ADJOURNMENT**

There being no further matters for discussion Council President Pro Tempore Pritchard adjourned the pre-meeting at approximately 6:29 pm.

**4. CERTIFICATION**

I, Heather Richards, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the regular session of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A-106) on May 22, 2023, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that no formal action or votes were conducted at said work session.

---

City Clerk, Approved by  
City Council June 12, 2023

**MINUTES OF THE REGULAR MEETING OF THE  
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK  
MAY 22, 2023**

---

[As a convenience, members of the public were invited to listen and observe in the public meeting by Internet video conference. There were 4 virtual attendees at the meeting.]

The City Council of the City of Mountain Brook, Alabama met in person at 7:00 p.m. on the 22<sup>nd</sup> day of May, 2023 (others were allowed to listen to the meeting by way of Internet video conference- 4 attended virtually). Council President Pro Tempore Pritchard called the meeting to order and the roll was called with the following results:

Present: William S. Pritchard III, Council President Pro Tempore  
Lloyd C. Shelton  
Gerald A. Garner  
Graham L. Smith  
Stewart Welch III, Mayor

Absent: Virginia C. Smith, Council President

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and City Clerk Heather Richards.

The Council President Pro Tempore stated that a quorum was present and that the meeting was open for the transaction of business

**1. DR. BRIAN CHRISTINE, DISTRICT 5 JEFFERSON COUNTY COMMISSION CANDIDATE, TO ADDRESS COUNCIL**

Dr. Brian Christine-District 5 Jefferson County Commission Candidate

- The Jefferson County Commission that represents District 5, will be resigning at the end of the month
- As of June 1<sup>st</sup>, this position will be vacant
- A special election will be held in July
- Lives in District 5
- Believes he has the credentials to be a County Commissioner
- His practice, Urology Centers of Alabama, is in the heart of District 5
- Employs over 300 employees and has a revenue of over 80 million a year
- Revenues generated go back into Jefferson County
- Has a vested interest in sound fiscal policies, driver recruitment and workforce development
- Wants to earn support of individuals of Mountain Brook and citizens throughout of District 5

**2. EXPRESSION OF GRATITUDE TO DAVID P.B. PRICE FOR HIS SERVICE ON THE PARKS AND RECREATION BOARD (RESOLUTION NO. 2023-079, EXHIBIT 1)**

Stewart Welch-Mayor

- Presented David P.B. Price with the Resolution

**3. MOUNTAIN BROOK CHAMBER OF COMMERCE SEMI-ANNUAL REPORT**

Emily Jensen-Mountain Brook Chamber of Commerce Executive Director

- Thanked the Council for their continued support of the Chamber
- 4 things to work on: Membership, Events and Training, Chamber operations, and Marketing
- Have a new website that is about 85% complete and should out in next few weeks
- Membership statistics: 466 members that includes 30 new members
- Had 17 ribbon cuttings since last report
- 7 Alabama retailer of the year nominations came out of the Chamber
- To ensure they are aligned with other Chambers in the State, their by-laws are being reviewed by Chamber of Commerce of Alabama
- Begun the multi-year process of becoming an accredited Alabama Chamber of Commerce
- Social media is up across all platforms
- Summer Membership Social will be June 8<sup>th</sup>
- Market Day will be July 15<sup>th</sup>

Millie Rudder-President of the Chamber Board

- Thanked the council for their continued support

**4. CONSENT AGENDA**

Council President Pro Tempore Pritchard announced that the following matters will be considered at one time on the consent agenda provided no one in attendance objects:

Approval of the minutes of the May 8, 2023, regular meeting of the City Council

<b>2023-079</b>	Expression of Gratitude for David Price for his service on the Parks and Recreation Board	Exhibit 1
<b>2023-080</b>	Authorize a consulting service agreement with Schoel Engineering for the design and preparation of construction documents for the Mountain Lane and Montevallo Lane area drainage improvement project.	Exhibit 2, Appendix 1
<b>2023-081</b>	Swap the Crestline Field property, owned by the City of Mountain Brook, with the Tot Lot property, owned by the Mountain Brook Board of Education	Exhibit 3
<b>2023-082</b>	Award the bid [B-20230311-854] for the Jemison Trail project to CS Beatty Construction	Exhibit 4, Appendix 2
<b>2023-083</b>	Authorize the execution of a cost sharing agreement with the Friends of Jemison Park (FOJP) for the Jemison Trail project	Exhibit 5, Appendix 3
<b>2023-084</b>	Accept the proposal submitted by Stone and Sons Electrical for the installation of a flashing beacon and sign on Overton Road near North Woodbridge Road	Exhibit 6, Appendix 4
<b>2023-086</b>	Approve the conditional use application (CB&S Bank) located at 7 Office Park Circle	Exhibit 7, Appendix 5

Thereupon, the foregoing minutes and resolutions (Nos. 2023-079 through 2023-084 and 2023-086), were introduced by Council President Pro Tempore Pritchard and a motion for their immediate adoption made by Council Member Shelton. The minutes and resolutions were then considered by the City Council. Council Member Graham Smith seconded the motion to adopt the

foregoing minutes and resolutions. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: William S. Pritchard III  
Lloyd C. Shelton  
Gerald A. Garner  
Graham L. Smith

Nays: None

Abstained: None

Council President Pro Tempore Pritchard thereupon declared that said minutes and resolutions (Nos. 2023-079 through 2023-084 and 2023-086) were adopted by a vote of 4—0 and as evidence thereof he signed the same.

**5. CONSIDERATION: ORDINANCE 2141 DECLARING REAL PROPERTY AS SURPLUS PROPERTY (EXHIBIT 8)**

Council President Pro Tempore Pritchard introduced the ordinance in writing. It was then moved by Council Member Garner that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended and that unanimous consent to the immediate consideration of said ordinance be given and that the reading of the ordinance at length be waived. The motion was seconded by Council Member Graham Smith and was unanimously carried, as follows:

Ayes: William S. ("Billy") Pritchard III  
Gerald A. Garner  
Lloyd C. Shelton  
Graham L. Smith

Nays: None

Council President Pro Tempore Pritchard declared the motion carried by a vote of 4—0.

After said ordinance had been considered in full by the Council, Council Member Garner then moved for the adoption of said ordinance. The motion was seconded by Council Member Shelton. Thereupon, Council President Pro Tempore Pritchard called for vote with the following results:

Ayes: William S. ("Billy") Pritchard III  
Gerald A. Garner  
Lloyd C. Shelton  
Graham L. Smith

Nays: None

Council President Pro Tempore Pritchard declared that the Ordinance (No. 2141) is hereby adopted by a vote of 4—0 and, as evidence thereof, he signed the same.

**6. CONSIDERATION: RESOLUTION NO. 2023-085 EXECUTING A CONTRACTOR AGREEMENT WITH NET CONNECTION LLC WITH RESPECT TO THE INSTALLATION OF BAY BATTING CAGES AND FRAMES LOCATED AT CHEROKEE BEND ELEMENTARY (EXHIBIT 9, APPENDIX 6)**

Shanda Williams-Parks and Recreation Superintendent

- The only place to put the two batting cages that is easy to place and safe for the kids is the outside of the field in wooded area on the east side of field
- At the last discussion held regarding the batting cages location, the neighbors requested her to look at different locations for the batting cages
- Looked at other locations; however, the property is elevated and the sides drop off dramatically except for the parking lot and the back side of the field
- Looked by the parking lot; however, it would cost over \$100,000 to fill in to make it flat and that location is below field level which is not visible by coaches and teams
- Only other option is to go back into wooded area in original proposed location
- Originally proposed coming off dead end street with equipment, now propose coming across field with equipment since school is out for summer
- Proposed planting more trees and shrubs in the wooded area to block the view of the batting cages from the neighbors
- The school is in favor of this location of the batting cages

Austin Ray-4349 Kennesaw Drive

- Still object to the location of the batting cages
- Do not object the batting cages, object the location of the batting cages
- The noise coming from the batting cages will be excessive because there is no sound barrier
- Suggested different locations to Shanda
- Several locations appeared just as functional that would not affect the neighbors (with respect to sound)
- Original concept (as requested by Mountain Brook Athletics) was to add a third batting cage and a pavilion (when budget permits)
- Feels that a pavilion would create an eyesore for the neighbors

Shanda Williams

- Lights will only be turned on for MBA schedules
- Currently the lights are scheduled to go off at 9:00pm
- There is not open access at night

Billy Pritchard-Council President

- The timer to the lights are controlled by Shanda Williams

Scott Elledge-4345 Kennesaw Drive

- Stated the center and center left of the field is a more favorable location for the batting cages
- The current proposed location of the batting cages are very close to his backyard
- When the field was expanded, a lot of the buffer was removed and has already negatively affected his property
- Asked the council to re-consider an alternate location

Billy Pritchard

- Asked Shanda Williams if after taking into consideration suitability and additional costs of other alternative sites and after several discussions and input from principal of the school, if this was her recommendation for the site of the batting cages

Shanda Williams

- Yes, this location is her recommendation for the batting cages

Graham Smith-Council Member

- Walked the property, the schools use the middle of the field for field day and carnivals; therefore, putting something in the center doesn't suit the school
- There is a full precipice surrounding the entire parameter of the school
- Does not know of another location to put the batting cages

Council Member Graham Smith made a motion to approve the contractor agreement between the City and Net Connection LLC with respect to the installation of 2 (two) bay batting cages and frames located at Cherokee Bend Elementary. The motion was seconded by Council President Pro Tempore Pritchard. Thereupon, Council President Pro Tempore Pritchard called for vote with the following results:

Ayes: William S. ("Billy") Pritchard III  
Gerald A. Garner  
Graham L. Smith

Nays: Lloyd C. Shelton

Council President Pro Tempore Pritchard declared that Resolution (No. 2023-085) is hereby adopted by a vote of 3—1 (Exhibit 9, Appendix 6)

## 7. COMMENTS FROM RESIDENCES AND ATTENDEES

Chris Ray-4349 Kennesaw Drive

- Wants assurance that there will be no disruption of the buffer zone at Kennesaw Drive
- Wants to know about the covered lighted pavilion

Billy Pritchard

- There is no such plan the council is aware of for a covered lighted pavilion

Shanda Williams

- Will instruct the contractors where to go for the project

Charles Pringle-101 Richmar Drive

- Thanked the council for the special meeting on May 2<sup>nd</sup> for the drainage improvements on Montevallo Lane and Richmar Drive
- A week ago his neighborhood experienced additional flood impacts resulting from minor rainstorm
- Disappointed in city's response for the lack of plans for area 2 and downstream of "the cut"
- Propose the council to do a comprehensive plan that addresses the entire drainage and deals with impact across Richmar residents and other residents
- Disappointed in the city's response to only address what is upstream and the city's unwillingness to address Richmar's issues due to fear of creating impacts for other residents

Frank Long-110 Richmar Drive

- Haven't seen any reasoning behind Schoel's opinion regarding capturing all water uphill and channeling into the cut will not cause more issues at the cut
- Until the bottleneck is relieved, there is no need to send more water into that space
- More water will cause it to flood more often



- Asking for a comprehensive solution
- Stated improvements in Resolution 2023-080 that was passed is just a band aid and may cause more harm than good for neighbors that live adjacent to “the cut” or downstream from “the cut”

Billy Pritchard

- Had a lengthy meeting on May 2<sup>nd</sup> and continue to take in all information and facts that are brought before the council by the consultants

Mitch Kessler-3502 Mountain Lane

- Inquired as to the reason no one wants the water to go downstream because all of the houses downstream are elevated and would not be affected

Billy Pritchard

- Had a lengthy explanation on May 2<sup>nd</sup> from consultant
- Will continue to look for possible avenues to address problems with consultant
- The council will continue to look at all situations and all areas that have issues with water

**8. ANNOUNCEMENT**

Council President Pro Tempore Pritchard announced the next regular meeting of the City Council is June 12, 2023, 7:00p.m.

**9. ADJOURNMENT**

There being no further business to come before the City Council, Council President Pro Tempore Pritchard adjourned the meeting at approximately 8:01 p.m.

**10. CERTIFICATION**

I, Heather Richards, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the regular meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Council Chamber (Room A-108) on May 22, 2023, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that a quorum was present.

\_\_\_\_\_  
 City Clerk Approved by  
 City Council June 12, 2023

**EXHIBIT 1**

**RESOLUTION NO. 2023-079**

**WHEREAS**, David P. B. Price served with dedicated distinction on the Mountain Brook Parks and Recreation Board from May 27, 2008 through May 27, 2023 and most importantly became the first Parks and Recreation Superintendent of the city of Mountain Brook which position he held from 1983 to 1987; and

**WHEREAS**, David Price used his time, talent, and influence to provide input and guidance to the Mountain Brook Parks and Recreation Department for future planning for numerous projects,

including the creation of Cahaba River Walk and the Sports Complex and Field 1 renovations; improvements to the Mountain Brook Elementary and Cherokee Bend Elementary fields; installation of water fountains and public restrooms to the parks and fields; as well as planning the Jemison Trail and Junior High renovations; and

**WHEREAS**, David Price has provided generous support of the Mountain Brook youth by mentoring members of Leadership Mountain Brook and Boy Scouts of America on their projects in the parks, two of which are popular dog parks; and

**WHEREAS**, David Price's expertise and leadership were invaluable as he created the city's first park signs and served as a part of the sign design committee; and

**WHEREAS**, David Price is known for keeping the Parks and Recreation board on track with Robert's Rules of Order; and

**WHEREAS**, In David Price's tenure on the Parks and Recreation Board he consistently exhibited a dedication to the natural integrity of Mountain Brook's green spaces that resulted in the continued enrichment of the quality of life for residents and visitors; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council and Mayor, on behalf of the residents of Mountain Brook, do publicly thank David Price, for his many years of exemplary service and wish him well in future endeavors.

---

**EXHIBIT 2**

**RESOLUTION NO. 2023-080**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the agreement for consulting services between the City and Schoel Engineering Company, Inc. for consulting services associated with the design and preparation of construction documents for the Mountain Lane and Montevallo Lane area drainage improvements project, subject to minor changes as may be determined appropriate by the City Attorney.

---

**APPENDIX 1**

**EXHIBIT 3**

**RESOLUTION NO. 2023-081**

**WHEREAS**, the Mountain Brook Board of Education (the "Board") operates Crestline Elementary School in Crestline Village; and

**WHEREAS**, directly adjacent to Crestline Elementary School is a playing field ("Crestline Field") that is utilized by Crestline Elementary School as part of its campus and which is also utilized by the City of Mountain Brook, Alabama (the "City") for recreational purposes pursuant to a lease between the parties; and

**WHEREAS**, the Board has recently undertaken a construction project at Crestline Elementary School that required a title search and it was discovered that the City holds title to the Property upon which the Crestline Field is located (the “Crestline Field Property”); and

**WHEREAS**, as a result of such discovery, the City also reviewed title to other properties in the Crestline Village area and it was discovered that the Board holds title to the property upon which a children’s playground operated exclusively by the City is located (the “Tot Lot Property”), and

**WHEREAS**, the City does not need the Crestline Field Property for City purposes and the Board does not need the Tot Lot Property for educational purposes; and

**WHEREAS**, accordingly, the City wishes to convey the Crestline Field Property to the Board and the Board wishes to convey the Tot Lot Property to the City so as to vest ownership of each property in the respective entity responsible for its primary use, operation and maintenance.

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of the City of Mountain Brook, Alabama (“the City”) that the Crestline Field Property, described as follows, is hereby declared as surplus and ownership thereof shall be transferred and conveyed to the Mountain Brook Board of Education of Education by Quit Claim Deed:

Lots 9, 10, 11, 12, 25, 26, 27, 28, 29 & 30 in Block 24, according to the survey of Crestline Heights, as recorded in Map Book 7, Page 16 in the Office of the Judge of Probate of Jefferson County, Alabama;

and

**BE IT FURTHER RESOLVED**, that that ownership of the Tot Lot Property, described as follows, shall be transferred and conveyed to the City of Mountain Brook by Quit Claim Deed:

Lot 14 in Block 2, according to the survey of Shepard’s Addition to Country Club gardens, as recorded in Map Book 25, Page 17 in the Office of the Judge of Probate of Jefferson County, Alabama;

and

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized to enter into and execute on behalf of the City any deeds, instruments, and undertakings, and to incur such related obligations and expenses in connection therewith, as may be necessary and appropriate to complete the conveyance and transfer of Crestline Field Property and the Tot Lot Property as set forth above.

---

#### **EXHIBIT 4**

#### **RESOLUTION NO. 2023-082**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, as follows:

1. The City Council hereby awards the bid [B-20230311-854] for the Jemison Trail project to CS Beatty Construction, Inc., in the amount of \$3,330,735.00 having been determined by the City to

be the best bid in conformance with the expressed specifications, subject to a fully executed cost sharing agreement with the FOJP.

2. The City Council hereby authorizes the Mayor or City Manager to execute a construction agreement, attached hereto as Exhibit A, and other related documents necessary for the project.
3. The City Council hereby authorizes and approves a deductive change order in the amount of \$300,000 in the form as attached hereto as Exhibit B.
4. The City Council acknowledges that the Jemison Trail improvement projects is a public-private partnership where the City's total financial commitment toward such improvements shall not exceed \$1,610,000 and the remainder shall be paid by FOJP from private donations dedicated to such project (see Resolution No. 2023-083).
5. The City Council hereby authorizes the waiver of the building permit fee and bond.
6. Any proposed change orders shall be approved by the City and Friends of Jemison Park. All such change orders must be approved in advance of the performance of any work or purchase of any materials and such approvals must be documented in writing.
7. Contractor has acknowledged that further deductive change orders may be required and implemented in the event that the fundraising efforts of FOJP come in below the amount required to limit the City's total contribution toward the project to \$1,610,000. Should such deductive change order be determined necessary, it is contemplated that the contractor will be notified on or around August 31, 2023.

## APPENDIX 2

---

### EXHIBIT 5

#### RESOLUTION NO. 2023-083

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, as follows:

1. The City Council hereby authorizes the execution of a cost sharing agreement, in the form as attached hereto as Exhibit A, between the City and the Friends of Jemison Park (FOJP) with respect to the Jemison Trail project (see Resolution No., 2023-082) subject to such minor revisions to be approved by the City Attorney, Mayor and FOJP where the execution of the agreement shall demonstrate evidence of such reviews and approvals.
2. The Friends of Jemison Park shall reimburse the City for all project costs in excess of \$1,610,000.
3. The City's total cost for the aforementioned project be \$1,610,000 regardless of any change orders that increase the project cost or any fundraising shortfalls from FOJP.

## APPENDIX 3

---

### EXHIBIT 6

**RESOLUTION NO. 2023-084**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the Mayor or the City Manager to accept the proposal submitted by Stone & Sons Electrical Contractors for the installation of a flashing beacon and sign on Overton Road near North Woodbridge Road in consideration of \$36,439.58 (Exhibit A attached hereto). Subject to entering into a customary contract with the City.

**APPENDIX 4**

---

**EXHIBIT 7**

**RESOLUTION NO. 2023-086**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama that the City Council hereby approves the conditional use application (CB&S Bank) at 7 Office Park Circle.

**APPENDIX 5**

---

**EXHIBIT 8**

**ORDINANCE 2141**

**WHEREAS**, the City of Mountain Brook, Alabama, has certain real property which are no longer needed for public or municipal purposes, as described in Resolution No. 2023-081; and

**WHEREAS**, Section 11-47-20 of the Alabama Code of 1975 authorizes the municipal governing body to dispose of unneeded real property.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Mountain Brook, as follows:

Section 1. It is hereby established and declared that the following item of real property owned by the City of Mountain Brook, Alabama are no longer needed for public or municipal purposes:

- Lots 9, 10, 11, 12, 25, 26, 27, 28, 29 & 30 in Block 24, according to the survey of Crestline Heights, as recorded in Map Book 7, Page 16 in the Office of the Judge of Probate of Jefferson County, Alabama;

Section 2. That the City Council hereby authorizes that the property be transferred and conveyed to the Mountain Brook Board of Education by Quit Claim Deed.

---

**EXHIBIT 9**

**RESOLUTION NO. 2023-085**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that City Council hereby authorizes the execution of a contractor agreement between the City and Net Connection LLC, in the form as attached hereto as Exhibit A, with respect to the installation of 2 (two) bay batting cage and frames located at Cherokee Bend Elementary, subject to minor changes as may be determined appropriate by the City Attorney.

**APPENDIX 6**

---

The Consultant will coordinate with client and collaborate with other team members on the existing drainage system that manages the stormwater and other hydrology considerations. The plan is to ~~create~~ conceptual plan for the project area. The Consultant will utilize the previous survey information and current engineering studies to help guide the design. These will be hand drawn sketches to scale showing potential options for site features. Character images and sketches will be provided for visual reference of each concept. These plans will be submitted for review and comment with a preferred plan selected for further refinement.

Agreement for Consulting Services

Mountain Ln and Montevallo Ln Area Drainage Improvements  
Design and Preparation of Construction Documents

May 18, 2023

This AGREEMENT, entered into by and between The City of Mountain Brook, Alabama, hereinafter referred to as the Client, and Schoel Engineering Company, Inc., hereinafter referred to as the Consultant, is for Consulting Services associated with the drainage improvements in the vicinity of Mountain Ln in Mountain Brook, Alabama. These improvements will be based on the recommendations and preliminary design of drainage improvements previously performed and presented to the City.

PROJECT OVERVIEW

There has been periodic flooding in the area of an open channel locally known as The Cut. The channel occupies the City right-of-way of the unopened portion of Mountain Lane. Upstream of The Cut, on Montevallo Ln and the opened portions of Mountain Ln, street flooding is known to occur. A preliminary design suggestion has been developed to mitigate the flooding upstream and improve the open channel in The Cut. In this work, Final Design and the preparation of Construction Documents will be performed based on the preliminary design. The work will maintain pedestrian use with possible pedestrian improvements through The Cut.

PROPOSED SCOPE & SERVICES

1. TOPOGRAPHIC SURVEY

A field-shot topographic survey of the site will be prepared. In addition, the boundary lines of the lots listed below will be noted on the survey. The detailed scope is as follows:

- Initial project research and coordination
- Establish site control
- Establish the select boundary lines of the lots listed below
  - o Eastern and Southern Lines of Lot 11, Montevallo Lane Subdivision
  - o Southern and Western Lines of Lot 5, Aarons-Addition to Overbrook Subdivision
  - o Northern and Western Lines of Lot A, Rogoffs Subdivision
  - o Northeastern-most and Northwestern Lines of Lot 1, Block 4, Overbrook Gardens Inc Subdivision
- Contact Alabama One Call utility services to locate utilities in the public rights-of-way
- Shoot topo on a 40-foot or equivalent grid including grade breaks within the topo limits
- Locate visible improvements (buildings, fences, curb, concrete, etc.)
- Locate visible utilities (water valves and meters, gas valves and meters, sanitary and storm sewers, electrical and telephone appurtenances, etc.)
- Shoot flow line elevations of visible sanitary and storm sewers, including the next upstream and downstream offsite structures
- Process field survey data and prepare a Topographic Survey showing spot elevations and above-mentioned lot lines

Lump Sum Fee \$ 11,500

2. LANDSCAPE ARCHITECTURE: CONCEPTUAL DESIGN

The Consultant will produce 2 to 3 different conceptual plans for consideration for the following:

- Hardscape areas
- Pedestrian Path
- Potential site features and lighting
- Landscape areas

1

5. CONSTRUCTION ADMINISTRATION

The Consultant will perform Construction Review to evaluate the Contractor's general conformance with plans and specifications. The Consultant will review Shop Drawings, and work with the Contractor and Client in solving any minor construction related problems that may arise. The Consultant will review and approve pay requests and assist with project closeout. The detailed scope is as follows:

- Review of shop drawings
- Construction observation to be performed on an as-needed basis and at the direction of the Client
- Minor construction-related revisions – Revisions required as a result of field conditions or as agreed upon by the Client

Lump Sum Fee \$ 8,500

NOT INCLUDED IN SCOPE OF WORK

1. Structural or Geotechnical Engineering
2. Design or modification to public sanitary sewers (if required, this would be added to scope and a new fee developed)
3. Full Construction Engineering and Inspection (CEI), not assumed to be required
4. Construction surveying
5. Major revisions
6. Stormwater permitting with ADEM (not required)
7. Design or study of downstream improvements
8. Negotiations with property owners for easement rights (not believed to be required)

If additional services not included in the above scope are performed, those additional services should be approved by Client in advance and may be billed according to the attached Schedule of Unit Rates.

Lump Sum Fee \$ 6,200

4. LANDSCAPE ARCHITECTURE: CONSTRUCTION DOCUMENTS

1. *Site Landscape Plans* – We will provide a landscape plan for the site in accordance with your general direction and in compliance with local requirements (if any) in coordination with the design team. The plans will include species, locations, and sizes of proposed plantings.
2. *Landscape Details* – As a part of the fee for the landscape plans, we will also provide the required planting details and notes needed for installation of the proposed plants.

Lump Sum Fee \$ 7,700

5. FINAL DESIGN AND PREPARATION OF CONSTRUCTION DOCUMENTS

The Consultant would prepare final design and Construction Documents of the Mountain Ln (Opened and Unopened portions) and Montevallo Ln drainage improvements as identified in the study phase. The detailed scope is as follows:

- Coordinate as required with Client
- Meet with affected neighbors on plans
- Develop final design of proposed drainage improvements
- Preparation of Final Construction Plans, including:
  - o Cover Sheet
  - o Layout Plan of drainage improvements
  - o Demolition plan (if required)
  - o Grading and Drainage Plan
  - o Profile of proposed storm lines
  - o Design Details
  - o Incorporation of Landscape Architecture Construction Documents
- Preparation of technical specifications

Lump Sum Fee \$ 49,500

4. ASSISTANCE WITH BIDDING AND CONTRACTOR SELECTION

The Consultant would assist the Client with contractor selection. This work would include assisting the City with the preparation of Bid Documents, attending pre-bid conference, answering contractor questions, and assisting the City in the review of the bids. The Detailed Scope is as follows:

- Assist in the selection of the Contractor
- Attend pre-bid conference
- Address questions posed by selected Contractor, issue clarifications if required
- Assist client with contract preparation and coordinate Client/Contractor administration

Lump Sum Fee \$5,800

2

SCHEDULE OF UNIT RATES – EFFECTIVE THROUGH 12/31/2023

Senior Principal	\$ 325.00 per hour
Principal	\$ 215.00 per hour
Survey Field Crew	\$ 195.00 per hour
Department Manager/Chief Land Surveyor	\$ 185.00 per hour
Senior Project Manager	\$ 175.00 per hour
Project Manager	\$ 150.00 per hour
Senior Professional	\$ 150.00 per hour
Project Professional	\$ 125.00 per hour
Staff Professional	\$ 115.00 per hour
Senior Designer / Drafter / Specialist	\$ 115.00 per hour
Designer 2 / Drafter 2 / Specialist 2	\$ 105.00 per hour
Designer 1 / Drafter 1 / Specialist 1	\$ 95.00 per hour
Admin/Co-Op/Technical Support	\$ 85.00 per hour

Printing and other reimbursable expenses will be charged at cost plus 15% and are not included in the fee basis described above. Lodging and Meals and Incidentals (M&IE) will be billed according to Government Services Administration (GSA) rates. Sub-consultant invoices billed as reimbursables will be invoiced to the client at a rate of 115% of the invoice amount

APPENDIX 1

The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect.

- 1) Services performed under this Agreement will be conducted in a manner consistent with that level of care and skill exercised by members of the profession currently practicing under similar conditions. Plans, specifications, and submittals will be prepared in accordance with the written standards of the governing authorities having jurisdiction. Any extraordinary requirements for approvals will be considered additional services. No other warranty, expressed or implied, is made. Nothing in this agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party.
- 2) The Client hereby agrees that to the fullest extent permitted by law the Consultant's total liability to Client for any and all injuries, claims, losses, expenses of damages whatsoever arising out of or in any way relating to the project, the site, or this Agreement, from any cause or causes including but not limited to the Consultant's negligence, errors, omissions, strict liability, breach of contract, breach of warranty shall not exceed the greater of the total amount paid by the Client for the services of the Consultant under this contract or \$50,000.00, whichever is greater. The Consultant's liability shall expire one (1) year from the completion date of the provision of services for each phase of the work.
- 3) The figures given above and in the body of this Agreement are based on the Scope of Work as described herein. If the above outlined Scope of Services is changed, or if there are other services that may be requested by the Client, these additional services will also be performed at the above unit rates, or a revised fee will be negotiated to the satisfaction of both the Client and Consultant at that time. The Consultant reserves the right to adjust these unit rates for inflation costs on a one-year interval from the date of this proposal.
- 4) All claims, disputes, and other matters in controversy between Consultant and Client arising out of or in any way related to this agreement (other than as a result of Client's failure to pay amounts due hereunder) will be submitted to mediation before, and as a condition precedent to, other remedies provided by law. Mediation shall be held in the county where the project is located, and if the parties cannot agree on a mediator then one shall be appointed by the American Arbitration Association (AAA). Parties agree to split cost of mediation 50-50.
- 5) Services not expressly set forth in writing as basic or additional services and listed in the proposal to this Agreement are excluded from the scope of the Consultant's services, and the Consultant assumes no duty to the Client to perform such services.
- 6) Client, at its expense, will provide the Consultant with all required site information, existing plans, reports, studies, project schedules and similar information that is contained in Client's files. The Consultant may rely on the information provided by the Client without verification. The Client shall participate with the Consultant by providing all information and criteria in a timely manner, review documents and make decisions on project alternatives to the extent necessary to allow the Consultant to perform the scope of work within established schedules.
- 7) Consultant shall secure and maintain insurance as required by law or statutory requirements which will protect him from claims under the workers compensation acts and from claims for bodily injury, death, or property damage that may arise from the performance of his services under and pursuant to this Agreement. Certificates of such coverage will be provided to Client upon request.
- 8) All reports, plans, documents, or other materials resulting from the Consultant's efforts shall remain the property of the Consultant and are intended solely for the purpose of this Agreement. Any reuse by Client for purposes outside of this Agreement or any failure to follow Consultant's recommendations without Consultant's written permission shall be at the user's sole risk.
- 9) This Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure to perform in accordance with the terms of the agreement by the other party through no fault of the terminating party. If this Agreement is terminated, it is agreed that Consultant shall be paid for total charges for labor performed to the termination notice date, plus reimbursable charges.
- 10) Neither party to this Agreement will be liable to the other party for delays in performing the services, nor for the direct or indirect cost resulting from such delays, that may result from labor strikes, riots, war, acts of governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond the reasonable control of either party.

- 12) The Consultant shall not be responsible for construction site safety or construction procedures, nor will the Consultant be responsible for the quality of the work performed by the contractor or other consultants.
- 13) Consultant may, at Client's request and for Client's convenience, provide documents in electronic format. Data, words, graphical representations, and drawings that are stored on electronic media or which are transmitted electronically, may be subject to uncontrollable alteration. The printed, signed and sealed hard copy is the actual professional instrument of service. In the event of a discrepancy between the electronic document and the hardcopy document, the hardcopy document will prevail.
- 14) This agreement is provided with the expectation that it is not being used in a price comparison with other firms. Alabama law prohibits licensed engineers and land surveyors from participating in any process that solicits prices from two or more licensed engineers or land surveyors simultaneously. The law defines this practice as bidding and participation by a licensee is prohibited. If this agreement is being used in this manner, we must by law, withdraw this agreement from consideration.

PROPOSAL ACCEPTANCE

<b>SUBMITTED:</b>	<b>ACCEPTED:</b>
Consultant: Schoel Engineering Company, Inc.	Client: City of Mountain Brook
Signature: <u>[Signature]</u>	Signature: <u>[Signature]</u>
Name: <u>Mark E. Simpson</u>	Name: <u>Stewart Welch</u>
Title: <u>Water Resources Department Manager</u>	Title: <u>Mayor</u>
Date: <u>May 18, 2023</u>	Date: <u>5-22-23</u>

Please print or type the following information for the individual, firm or corporation responsible for payment.

Company: \_\_\_\_\_

Client or Client's authorized representative: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

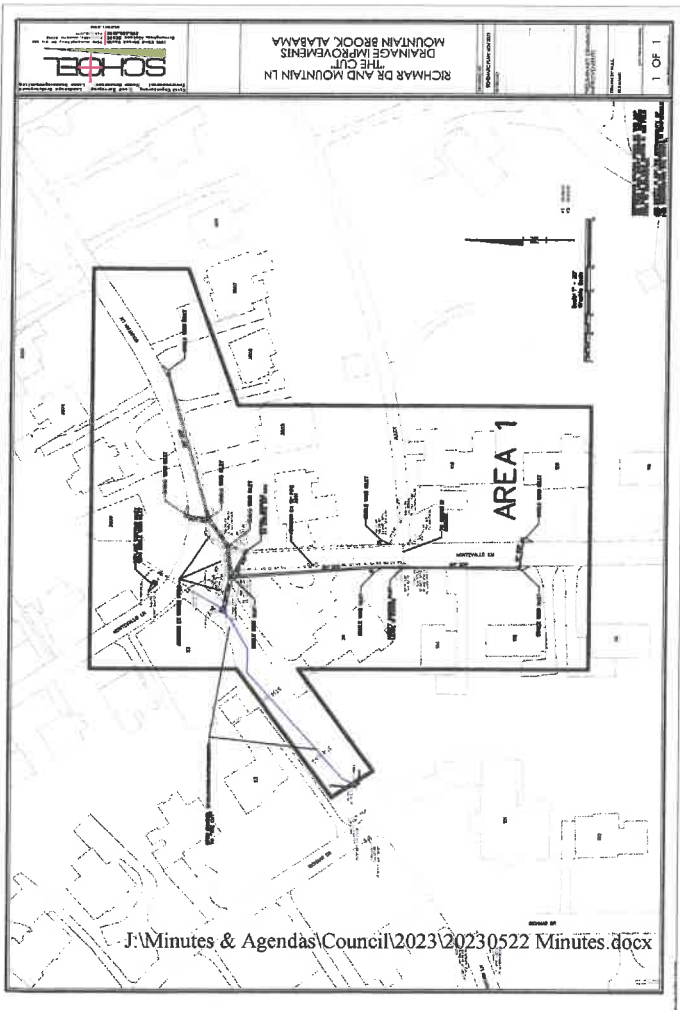
Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

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

Client's Project Number: \_\_\_\_\_ Client's Purchase Order Number: \_\_\_\_\_

Invoice Delivery Method:  Mail  Email  Other \_\_\_\_\_

APPENDIX 1





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

AGREEMENT made as of the Eighth day of May 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 City of Mountain Brook  
56 Church Street  
Mountain Brook, AL 35213

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

C.S. Beatty Construction, Inc.  
1 Civitan Place  
Birmingham, AL 35213

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

Jemison Trail  
Mountain Brook, AL  
Hardscape and Landscape Improvements

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

Nimrod Long and Associates, Inc.  
880 Montclair Road, Ste. 235  
Birmingham, AL 35213

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 the document is modified.

APPENDIX

CONTRACTOR LICENSE NO.	GEN. CONTRACT LICENSE NO.	SURETY	BOND NO.	BID AMT #1	BID AMT #2	BID AMT #3	BID AMT #4	BID AMT #5	NOTATIONS
Endorsement No. 0001	0001	Old Bond	EA0802022	\$04,193.00	\$73,200.00	\$16,340.00	\$10,000.00	\$23,200.00	Alabama 1 year 2nd Amendment
C.S. Beatty Construction, Inc.	2478	Old Bond	\$1,007,203.00	\$04,193.00	\$68,000.00	\$42,800.00	\$10,200.00	\$04,000.00	Alabama 1 year 2nd Amendment

THE CITY OF MOUNTAIN BROOK, ALABAMA

CONTRACT DOCUMENTS FOR THE AIA CONTRACT DOCUMENTS ARE AVAILABLE FOR REVIEW AT THE FOLLOWING URL: [www.aiacontracts.com](http://www.aiacontracts.com) DATE: 05/08/23 TIME: 2:01 PM

AIA Document A101 - 2017. Copyright © 1915, 1916, 1925, 1937, 1951, 1958, 1981, 1983, 1987, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced by AIA software at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail [docinfo@aiacontracts.com](mailto:docinfo@aiacontracts.com). User Notes: (SBSDA31)

**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, including approved extensions, as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work

17 Minutes & Agendas Council 2023 2030522 Minutes.docx

AIA Document A101 - 2017. Copyright © 1915, 1916, 1925, 1937, 1951, 1958, 1981, 1983, 1987, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail [docinfo@aiacontracts.com](mailto:docinfo@aiacontracts.com). User Notes: (SBSDA31)

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

Not later than Two Hundred Four ( 204 ) calendar days from the date of commencement of the Work.

By the following date:

(Paragraph Deleted)

(Table Deleted)

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, the Contractor shall pay the Owner, as liquidated damages (if any) and not as a penalty, the sum 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 Three Million Three Hundred Thirty Thousand Seven Hundred Thirty-five Dollars and Zero Cents (\$ 3,330,735.00 ), subject to additions and deductions as provided in the Contract Documents.

**§ 4.2 Alternates**

§ 4.2.1 Alternates accepted and therefore deducted from the Contract Sum:

Item	Price
Alternate No. 1: Tree Planting	\$ 84,419.00
Alternate No. 2: Binder Thickness	\$ 56,600.00
Alternate No. 3: Aggregate Base Thickness	\$ 45,209.00
Alternate No. 4: Work Opposite Old Mill Site	\$ 180,240.00

§ 4.2.1 Alternates not accepted and

(Table Deleted)

therefore remaining in the Contract Sum:

(Paragraph Deleted)

Item	Price
Alternate No. 5: Primary Trail Asphalt Width	\$ 54,836.00

(Table Deleted)

**§ 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)
See Article 9.9, Exhibit A: Unit Prices, attached		

May 22, 2023

AIA Document A101 - 2017. Copyright © 1915, 1916, 1925, 1937, 1951, 1958, 1981, 1983, 1987, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail [docinfo@aiacontracts.com](mailto:docinfo@aiacontracts.com). User Notes: (SBSDA31)

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

Bonus/penalty clause: Because Jemison Trail lies within the floodway of Shades Creek, the project location may be affected by seasonal flooding. The Owner places value on completing all asphalt work during summer and fall months which are typically drier. For each calendar day prior to November 20, 2023 that all asphalt work is complete, the Owner will provide a bonus payment of \$1000 per day. For each calendar day after November 20, 2023 that all asphalt work is not complete, the Contractor will be charged a penalty of \$1000 per day.

(Paragraphs Deleted)

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 20th day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the last 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 forty-five (45) 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;

AIA Document A101 - 2017, Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. (388ADA31)

§ 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.)

0 %

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.

(Paragraph Deleted)

§ 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.)

[ X ] 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.

(Paragraphs Deleted)

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

§ 7.3 In addition to any other basis specified in the Contract Documents, the following shall constitute bases for termination by the Contractor: (a) Owner's refusal to pay Contractor in accordance with the terms of the Contract for a period of more than 21 calendar days after notice thereof and an opportunity to cure; and (b) Owner's unreasonable refusal for a period of more than 21 calendar days from written request by Contractor to issue appropriate Change Orders or Construction Change Directives in writing where the Owner or its Agent's conduct interferes with Contractor's performance causing delays to the Contractor.

Minutes & Agendas Council 2023\20230522 Minutes.docx

AIA Document A101 - 2017, Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. (388ADA31)

- 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 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.)

The Owner will retain 5% of the estimated value of the completed work, materials stored on site, and materials stored and insured off site until 50% completion of the work is accomplished, after which no additional retainage will be withheld.

(Paragraphs Deleted)

§ 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.)

§ 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:

AIA Document A101 - 2017, Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. (388ADA31)

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)

Shanda Williams, Director
Parks and Recreation Department
City of Mountain Brook
56 Church Street
Mountain Brook, AL 35213

§ 8.3 The Contractor's representative:

(Name, address, email address, and other information)

Craig Beatty
C.S. Beatty Construction, Inc.
1 Civitan Place
Birmingham, AL 35213

§ 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 Contractor shall purchase and maintain the following insurance:

(Paragraph Deleted)

\$ 1 million Comprehensive General Liability coverage

\$ 1 Million Automobile Liability coverage

Workman's Compensation coverage as required by law.

§ 8.7 Other provisions:

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

(Paragraph Deleted)

3 AIA Document A201™-2017, General Conditions of the Contract for Construction

(Paragraphs Deleted)

AIA Document A101 - 2017, Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. (388ADA31)

May 22, 2023

.5 Drawings

Number	Title	Date
See Exhibit B, Drawing List (attached)		

.6 Specifications

Section	Title	Date	Pages
See Exhibit B, Specifications (attached)			

.7 Addenda, if any:

Number	Date	Pages
Addendum No.	April 19, 2023	17
Addendum No. 2	April 24, 2023	1

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.)

(Paragraphs Deleted)

(Paragraph Deleted)

(Table Deleted)

[ X ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
See Exhibit B, Contract Conditions (attached)			

.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.)

Exhibit A, Unit Prices

OWNER (Signature)

CONTRACTOR (Signature)

(Printed name and title)

(Printed name and title)

APPENDIX 2

AIA Document A101 - 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1981, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024. It not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

(3BBADA31)

AIA Document A101 - 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1981, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024. It not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

(3BBADA31)

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 16:17:11 ET on 05/22/2023.

PAGE 1

AGREEMENT made as of the Eighth day of May in the year Two Thousand Twenty-three

The City of Mountain Brook  
56 Church Street  
Mountain Brook, AL 35213

C.S. Beatty Construction, Inc.  
1 Civitan Place  
Birmingham, AL 35213

Jemison Trail  
Mountain Brook, AL  
Hardscape and Landscape Improvements

Nimrod Law and Associates, Inc.  
880 Montclair Road, Ste. 235  
Birmingham, AL 35213

PAGE 2

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.

[ ] The date of this Agreement Agreement.

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

JVM Minutes & Agendas Council 2023 2023 05 22 Minutes.docx  
Additions and Deletions Report for AIA Document A101 - 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1981, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024. It not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

(3BBADA31)

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

PAGE 3

[ ] Not later than Two Hundred Four ( 204 ) calendar days from the date of commencement of the Work.

§ 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 the Contractor shall pay the Owner, as liquidated damages (if any) and not as a penalty, the sum as set forth in Section 4.5.

§ 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 Three Million Three Hundred Thirty Thousand Seven Hundred Thirty-five Dollars and Zero Cents (\$ 3,330,735.00 ), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in Alternates accepted and therefore deducted from the Contract Sum:

Alternate No. 1: Tree Planting	\$ 84,419.00
Alternate No. 2: Binder Thickness	\$ 56,600.00
Alternate No. 3: Aggregate Base Thickness	\$ 45,209.00
Alternate No. 4: Work Opposite Old Mill Site	\$ 180,240.00

§ 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 4.2.1 Alternates not accepted

May 22, 2023  
Additions and Deletions Report for AIA Document A101 - 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1981, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024. It not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

(3BBADA31)

5.3 Provided that an Application for Payment is received by the Architect not later than the 20th day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the last 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 forty-five (45) days after the Architect receives the Application for Payment.

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

Item Price Conditions for Acceptance

4.3 Allowances, if any, included therefore remaining in the Contract Sum:

(Identify each allowance.)

Item	Price
Alternate No. 5: Primary Trail Asphalt Width	\$ 54,836.00

See Article 9.9, Exhibit A, Unit Prices, attached.

PAGE 4

Bonus/penalty clause: Because Jerimion Trail lies within the floodway of Shades Creek, the project location may be affected by seasonal flooding. The Owner places value on completing all asphalt work during summer and fall months which are typically drier. For each calendar day prior to November 20, 2023 that all asphalt work is complete, the Owner will provide a bonus payment of \$1000 per day. For each calendar day after November 20, 2023 that all asphalt work is not complete, the Contractor will be charged a penalty of \$1000 per day.

4.6 Other:

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

Additions and Deletions Report for AIA Document A101 - 2017, Copyright © 1915, 1916, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. The American Institute of Architects, "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (389ADA31)

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, A201-2017.

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

[X] Arbitration pursuant to Section 15.4 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.)

7.3 In addition to any other basis specified in the Contract Documents, the following shall constitute bases for termination by the Contractor: (a) Owner's refusal to pay Contractor in accordance with the terms of the Contract for a period of more than 21 calendar days after notice thereof and an opportunity to cure; and (b) Owner's unreasonable refusal for a period of more than 21 calendar days from written request by Contractor to issue appropriate Change Orders or Construction Change Directives in writing, where the Owner or its Agent's conduct interferes with Contractor's performance causing delays to the Contractor.

PAGE 7

Shanda Williams, Director  
Parks and Recreation Department  
City of Mountain Brook  
56 Church Street  
Mountain Brook, AL 35213

Craig Beatty  
C.S. Beatty Construction, Inc.  
1 Civitan Place

I:\Minutes & Agendas\Council\2023\20230522 Minutes.docx

Additions and Deletions Report for AIA Document A101 - 2017, Copyright © 1915, 1916, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. The American Institute of Architects, "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (389ADA31)

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

PAGE 5

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, payment as provided in Article 9 of AIA Document A201-2017; and

The Owner will retain 5% of the estimated value of the completed work, materials stored on site, and materials stored and insured off site until 50% completion of the work is accomplished, after which no additional retainage will be withheld.

6.1.7.1.1 The following items are not subject to retainage:

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

6.1.7.2 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.)

PAGE 6

0 %

Additions and Deletions Report for AIA Document A101 - 2017, Copyright © 1915, 1916, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. The American Institute of Architects, "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (389ADA31)

Birmingham, AL 35213

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, the following insurance:

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

\$ 1 million Comprehensive General Liability coverage

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: \$ 1 Million Automobile Liability coverage

(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.) Workman's Compensation coverage as required by law.

2 - AIA Document A101™-2017, Exhibit A, Insurance and Bonds

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.)

PAGE 8

See Exhibit B, Drawing List (attached)

Additions and Deletions Report for AIA Document A101 - 2017, Copyright © 1915, 1916, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. The American Institute of Architects, "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (389ADA31)

May 22, 2023

See Exhibit B, Specifications  
(attached)

Addendum No. April 19, 2023 17  
Addendum No. 2 April 24, 2023 1

[ ] AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below

(Insert the date of the E204-2017 incorporated into this Agreement)

[ ] The Sustainability Plan:

Title Date Pages

[X] Supplementary and other Conditions of the Contract:

See Exhibit B, Contract Conditions  
(attached)

Exhibit A, Unit Prices

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 16:17:11 ET on 05/22/2023 under Order No. 2114432046 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)

(Title)

(Dated)

APPENDIX 2

Additions and Deletions Report for AIA Document A101 – 2017, Copyright © 1915, 1918, 1925, 1937, 1951, 1956, 1961, 1983, 1987, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com. User Notes: (388A0A51)

AIA Document D401 – 2003, Copyright © 1992 and 2006. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:17:11 ET on 05/22/2023 under Order No.2114432046 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com. User Notes: (388A0A51)

JEMISON TRAIL, Bid No. B-20230311-857  
NLA# 22-311

EXHIBIT A  
Page 1 of 3

UNIT PRICES

The Unit Prices listed below shall determine the value of extra Work or changes in the Work, as applicable. They shall be considered complete and shall include all material and equipment, labor, installation costs, overhead and profit. Unit Prices shall be used uniformly for additions or deductions. The final amount paid for the Work done will be the sum of the actual quantities of installed Work, as approved in writing by the Owner, at the Unit Prices bid.

Unit Prices do NOT include sales tax..

ITEM	UNIT PRICE
LS Tree Removal (70) trees, (See Drawings D-1 to D-4)	\$ 44,398.03
SY 4" Asphalt, 8" Base for Trails (See 1/HD-1)	\$ 102.80
LF 18" wd. Curb & Gutter and Asphalt Patch (see 2/HD-1)	\$ 46.37
LF 30" wd. Valley Gutter and Asphalt Patch (See 15/HD-3)	\$ 47.24
SF 4" Concrete Sidewalk and Base (See 3/HD-1)	\$ 12.28
LF 8" Concrete Turndown at Sidewalk (See 3/HD-1)	\$ 3.00
LF Brick Soldier Curb at Parking (See 4/HD-1)	\$ 26.89
SY 4" Asphalt Paving at Parking (See 4/HD-1)	\$ 239.30
LF Brick Soldier Curb at Sidewalk (See 7/HD-1)	\$ 26.89
LF ADA Handrail at Ramp (See 8/HD-1)	\$ 239.30
LF Stone Wall and Footing at Ramp (See 8/HD-1)	\$ 282.10

JEMISON TRAIL, Bid No. B-20230311-857  
NLA# 22-311

EXHIBIT A  
Page 2 of 3

ITEM	UNIT PRICE
LF Handrail at Sidewalk (See 19/HD-3)	\$ 194.50
LF 15" HDPE, N-12 Storm Pipe (See 9/HD-2)	\$ 54.50
LF 18" HDPE, N-12 Storm Pipe (See 9/HD-2)	\$ 61.76
LF 24" HDPE, N-12 Storm Pipe (See 9/HD-2)	\$ 83.95
LF 30" HDPE, N-12 Storm Pipe (See 9/HD-2)	\$ 139.76
LF 36" HDPE, N-12 Storm Pipe (See 9/HD-2)	\$ 115.24
SF 6" Concrete Sidewalk at HC Parking (See 18/HD-3)	\$ 12.24
LF Split-rail Fence (See 17/HD-3)	\$ 22.88
SF Flagstone Paving and Concrete Base (See 21-24/HD-4)	\$ 40.77
LF 12" wd. Stone Terrace Border (See 23/HD-4)	\$ 58.24
LF 18" wd. Stone Terrace Border (See 21-22/HD-4)	\$ 87.86
LF 12" wd. Stone Border at Planting (See 23/HD-4)	\$ 58.24
EA Stone Column w/Ftg. (See 23/HD-4)	\$ 2339.58
LF Stone Terrace Wall w/Ftg. (See 24/HD-4)	\$ 452.67
LF 3' wide Flagstone Border at Lawn (See 23-24/HD-4)	\$ 116.48
EA Stone Tree Well (See 11/HD-2)	\$ 2106.62
CY Topsoil, furnished and installed	\$ 44.36
EA Water Fountain, installed including connection to exist. water line, new drainage sump and concrete pad.	\$ 25,857.88

688

MINUTE BOOK 93

CONTRACT CONDITIONS

ITEM	UNIT PRICE
AC Temporary Seeding (See Section 329200 Grassing)	\$ 7476.05
EA Chalk Maple, 15 gal.	\$ 463.44
EA Red Maple, 2.5"-3" cal.	\$ 633.73
EA Ironwood, 15 gal.	\$ 463.44
EA Eastern Redbud, 15 gal.	\$ 463.44
EA American Beech, 3.5"-4" cal.	\$ 1138.17
EA American Beech, 3"-3.5" cal.	\$ 801.38
EA American Beech, 2.5"-3" cal.	\$ 614.02
EA Tulip Poplar, 2"-2.5" cal.	\$ 730.52
EA Southern Magnolia, 10'-12' ht.	\$ 890.07
EA Black Gum, 2"-2.5" cal.	\$ 656.13
EA Longleaf Pine, 15 gal.	\$ 463.44
EA Eastern Hophornbeam, 15 gal.	\$ 645.34
EA Sycamore, 2.5"-3" cal.	\$ 684.80
EA Swamp White Oak, 3.5"-4" cal.	\$ 856.93
EA Water Oak, 15 gal.	\$ 463.44
EA Overcup Oak, 2.5"-3" cal.	\$ 606.80
EA Sassafras, 7 gal.	\$ 111.16
EA American Bladdernut, 15 gal.	\$ 463.44
EA American Bladdernut, 7 gal.	\$ 134.45
EA Bald Cypress, 3"-3.5" cal.	\$ 659.69
1 LS Performance Bond, Labor and Materials Payment Bond	\$ 36,900.00

END OF UNIT PRICES.

A. CONTRACT REQUIREMENTS

004324	Alternates	2
006500	Project Closeout	4
010000	General Requirements	6
013100	Schedules, Reports, Payments	3
014216	Definitions and Standards	3
017329	Cutting and Patching	3
017600	Site Protection	4

B. TECHNICAL SPECIFICATIONS

031000	Concrete Formwork	2
032000	Concrete Reinforcement	2
033000	Concrete	2
042000	Exterior Stone Cladding	4
310000	Earthwork	9
334200	Storm Water Conveyance	5
321216	Asphalt Paving	13
321313	Concrete Paving	5
321440	Stone Paving	4
329200	Seeding	5
329900	Site Accessories	2

C. DRAWINGS

EC-1 – EC-6	Site Erosion and Sediment Control Plans
EC-DET1	Site Erosion and Sediment Control Plans
TP-1 – TP-4	Site Tree Protection Plans
D-1 – D-4	Site Demolition Plans
SG-1 – SG-6	Site Grading and Drainage Plans
SL-1 – SL-6	Site Layout Plans
HD-1 – HD-4	Hardscape Details
SPD-1 – SPD-2	Site Planting and Details
TS-1 – TS-4	Topographic Survey

APPENDIX 2

14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES

**AIA** Document A201' – 2017

General Conditions of the Contract for Construction

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

Jemison Trail  
 Mountain Brook, Alabama

THE OWNER:  
 (Name, legal status and address)

The City of Mountain Brook  
 56 Church Street  
 Mountain Brook, Alabama 35213

THE ARCHITECT:  
 (Name, legal status and address)

Nimrod Long and Associates, Inc.  
 880 Montclair Road, Ste 235  
 Birmingham, AL 35213

**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 A303™, Guide for Supplementary Conditions.

TABLE OF ARTICLES

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

Minutes & Agendas Council 2023 20230522 Minutes.docx

1.1, 4.2.5, 4.2.9, 9.3.3, 9.4, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.4
Certificates of Inspection, Testing or Approval
13.4.4
Certificates of Insurance
9.10.2
Change Orders
1.1.1, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8, 5.2.3, 7.1.2, 7.1.3, 7.2, 7.3.2, 7.3.7, 7.3.9, 7.3.10, 8.3.1, 9.3.1.1, 9.10.3, 10.3.2, 11.2, 11.5, 12.1.2
Change Orders, Definition of
7.2.1
CHANGES IN THE WORK
2.2.2, 3.11, 4.2.8, 7, 7.2.1, 7.3.1, 7.4, 8.3.1, 9.3.1.1, 11.5
Claims, Definition of
15.1.1
Claims, Notice of
1.6.2, 15.1.3
CLAIMS AND DISPUTES
3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, 15, 15.4
Claims and Timely Assertion of Claims
15.4.1
Claims for Additional Cost
3.2.4, 3.3.1, 3.7.4, 7.3.9, 9.5.2, 10.2.5, 10.3.2, 15.1.5
Claims for Additional Time
3.2.4, 3.3.1, 3.7.4, 6.1.1, 8.3.2, 9.5.2, 10.3.2, 15.1.6
Concealed or Unknown Conditions, Claims for
3.7.4
Claims for Damages
3.2.4, 3.18, 8.3.3, 9.5.1, 9.6.7, 10.2.5, 10.3.3, 11.3, 11.3.2, 14.2.4, 15.1.7
Claims Subject to Arbitration
15.4.1
Cleaning Up
3.15, 6.3
Commencement of the Work, Conditions Relating to
2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3, 6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.2, 15.1.5
Commencement of the Work, Definition of
8.1.2
Communications
3.9.1, 4.2.4
Completion, Conditions Relating to
3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1, 9.10, 12.2, 14.1.2, 15.1.2
COMPLETION, PAYMENTS AND
9
Completion, Substantial
3.10.1, 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2, 15.1.2
Compliance with Laws
2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.5.4, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14.1.1, 14.2.1.3, 15.2.8, 15.4.2, 15.4.3
Concealed or Unknown Conditions

3.7.4, 4.2.8, 8.3.1, 10.3
Conditions of the Contract
1.1.1, 6.1.1, 6.1.4
Consent, Written
3.4.2, 3.14.2, 4.1.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 13.2, 15.4.4.2
Consolidation or Joinder
15.4.4
CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
1.1.4, 6
Construction Change Directive, Definition of
7.3.1
Construction Change Directives
1.1.1, 3.4.2, 3.11, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3, 7.3, 9.3.1.1
Construction Schedules, Contractor's
3.10, 3.11, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2
Contingent Assignment of Subcontracts
5.4, 14.2.2.2
Continuing Contract Performance
15.1.4
Contract, Definition of
1.1.2
CONTRACT, TERMINATION OR SUSPENSION OF THE
5.4.1.1, 5.4.2, 11.5, 14
Contract Administration
3.1.3, 4.9, 9.5
Contract Award and Execution, Conditions Relating to
3.7.1, 3.10, 5.2, 6.1
Contract Documents, Copies Furnished and Use of
1.5.2, 2.3.6, 5.3
Contract Documents, Definition of
1.1.1
Contract Sum
2.2.2, 2.2.4, 3.7.4, 3.7.5, 3.8, 3.10.2, 5.2.3, 7.3, 7.4, 9.1, 9.2, 9.4.2, 9.5.1.4, 9.6.7, 9.7, 10.3.2, 12.1.1, 12.1.2, 12.3, 14.2.4, 14.3.2, 15.1.4.2, 15.1.5, 15.2.5
Contract Sum, Definition of
9.1
Contract Time
1.1.4, 2.2.1, 2.2.2, 3.7.4, 3.7.5, 3.10.2, 5.2.3, 6.1.5, 7.2.1.3, 7.3.1, 7.3.5, 7.3.6, 7.7, 7.3.10, 7.4, 8.1.1, 8.2.1, 8.2.3, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 12.1.2, 14.3.2, 15.1.4.2, 15.1.6.1, 15.2.5
Contract Time, Definition of
8.1.1
CONTRACTOR
3
Contractor, Definition of
3.1, 6.1.2
Contractor's Construction and Submittal Schedules
3.10, 3.12.1, 3.12.2, 4.2.3, 6.1.3, 15.1.6.2
Contractor's Employees

INDEX
(Topics and numbers in bold are Section headings.)

Acceptance of Nonconforming Work
9.6.6, 9.9.3, 12.3
Acceptance of Work
9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, 12.3
Access to Work
3.16, 6.2.1, 12.1
Accident Prevention
10
Acts and Omissions
3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5, 10.2.8, 13.3.2, 14.1, 15.1.2, 15.2
Addenda
1.1.1
Additional Costs, Claims for
3.7.4, 3.7.5, 10.3.2, 15.1.5
Additional Inspections and Testing
9.4.2, 9.8.3, 12.2.1, 13.4
Additional Time, Claims for
3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, 15.1.6
Administration of the Contract
3.1.3, 4.2, 9.4, 9.5
Advertisement or Invitation to Bid
1.1.1
Aesthetic Effect
4.2.13
Allowances
3.8
Applications for Payment
4.2.5, 7.3.9, 9.2, 9.3, 9.4, 9.5.1, 9.5.4, 9.6.3, 9.7, 9.10
Approvals
2.1.1, 2.3.1, 2.5, 3.1.3, 3.10.2, 3.12.8, 3.12.9, 3.12.10.1, 4.2.7, 9.3.2, 13.4.1
Arbitration
8.3.1, 15.3.2, 15.4
ARCHITECT
4
Architect, Definition of
4.1.1
Architect, Extent of Authority
2.5, 3.12.7, 4.1.2, 4.2, 5.2, 6.3, 7.1.2, 7.3.4, 7.4, 9.2, 9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, 12.1, 12.2.1, 13.4.1, 13.4.2, 14.2.2, 14.2.4, 15.1.4, 15.2.1
Architect, Limitations of Authority and Responsibility
2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2, 4.2.3, 4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4, 9.4.2, 9.5.4, 9.6.4, 15.1.4, 15.2
Architect's Additional Services and Expenses
2.5, 12.2.1, 13.4.2, 13.4.3, 14.2.4
Architect's Administration of the Contract
3.1.3, 3.7.4, 15.2, 9.4.1, 9.5
Architect's Approvals

2.5, 3.1.3, 3.5, 3.10.2, 4.2.7
Architect's Authority to Reject Work
3.5, 4.2.6, 12.1.2, 12.2.1
Architect's Copyright
1.1.7, 1.5
Architect's Decisions
3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3, 7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1, 13.4.2, 15.2
Architect's Inspections
3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.4
Architect's Instructions
3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.4.2
Architect's Interpretations
4.2.11, 4.2.12
Architect's Project Representative
4.2.10
Architect's Relationship with Contractor
1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5, 3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16, 3.18, 4.1.2, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.3.2, 13.4, 15.2
Architect's Relationship with Subcontractors
1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.3
Architect's Representations
9.4.2, 9.5.1, 9.10.1
Architect's Site Visits
3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4
Asbestos
10.3.1
Attorneys' Fees
3.18.1, 9.6.8, 9.10.2, 10.3.3
Award of Separate Contracts
6.1.1, 6.1.2
Award of Subcontracts and Other Contracts for Portions of the Work
5.2
Basic Definitions
1.1
Bidding Requirements
1.1.1
Binding Dispute Resolution
8.3.1, 9.7, 11.5, 13.1, 15.1.2, 15.1.3, 15.2.1, 15.2.5, 15.2.6.1, 15.3.1, 15.3.2, 15.3.3, 15.4.1
Bonds, Lien
7.3.4.4, 9.6.8, 9.10.2, 9.10.3
Bonds, Performance, and Payment
7.3.4.4, 9.6.7, 9.10.3, 11.1.2, 11.1.3, 11.5
Building Information Models Use and Reliance
1.8
Building Permit
3.7.1
Capitalization
1.3
Certificate of Substantial Completion
9.8.3, 9.8.4, 9.8.5

3

4

AIA Document A201 - 2017. Copyright © 1911, 1915, 1916, 1925, 1927, 1951, 1956, 1961, 1963, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. Is not for resale. Is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@iaacontracts.com. User Notes: (SBSAD437)

AIA Document A201 - 2017. Copyright © 1911, 1915, 1916, 1925, 1927, 1951, 1956, 1961, 1963, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. Is not for resale. Is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@iaacontracts.com. User Notes: (SBSAD437)

2.2.4, 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3, 11.3, 14.1, 14.2.1.1
Contractor's Liability Insurance
11.1
Contractor's Relationship with Separate Contractors and Owner's Forces
3.12.5, 3.14.2, 4.2.4, 6, 11.3, 12.2.4
Contractor's Relationship with Subcontractors
1.2.2, 2.2.4, 3.3.2, 3.18.1, 3.18.2, 4.2.4, 5, 9.6.2, 9.6.7, 9.10.2, 11.2, 11.3, 11.4
Contractor's Relationship with the Architect
1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5.1, 3.7.4, 3.10, 3.11, 3.12, 3.16, 3.18, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.4, 15.1.3, 15.2.1
Contractor's Representations
3.2.1, 3.2.2, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2
Contractor's Responsibility for Those Performing the Work
3.3.2, 3.18, 5.3, 6.1.3, 6.2, 9.5.1, 10.2.8
Contractor's Review of Contract Documents
3.2
Contractor's Right to Stop the Work
2.2.2, 9.7
Contractor's Right to Terminate the Contract
14.1
Contractor's Submittals
3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 9.2, 9.3, 9.8.2, 9.8.3, 9.9.1, 9.10.2, 9.10.3
Contractor's Superintendent
3.9, 10.2.6
Contractor's Supervision and Construction Procedures
1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 7.3.6, 8.2, 10, 12, 14, 15.1.4
Coordination and Correlation
1.2, 3.2.1, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1
Copies Furnished of Drawings and Specifications
1.5, 2.3.6, 3.11
Copyrights
1.5, 3.17
Correction of Work
2.5, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, 12.2, 12.3, 15.1.3.1, 15.1.3.2, 15.2.1
Coordination and Intent of the Contract Documents
1.2
Cost, Definition of
7.3.4
Costs
2.5, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3, 7.3.3.3, 7.3.4, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6, 11.2, 12.1.2, 12.2.1, 12.2.4, 13.4, 14
Cutting and Patching
3.14, 6.2.5
Damage to Construction of Owner or Separate Contractors
3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 12.2.4

Damage to the Work
3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 12.2.4
Damages, Claims for
3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.3.2, 11.3, 14.2.4, 15.1.7
Damages for Delay
6.2.3, 8.3.3, 9.5.1.6, 9.7, 10.2.3, 14.3.2
Date of Commencement of the Work, Definition of
8.1.2
Date of Substantial Completion, Definition of
8.1.3
Day, Definition of
8.1.4
Decisions of the Architect
3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 6.3, 7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.4.2, 14.2.2, 14.2.4, 15.1, 15.2
Decisions to Withhold Certification
9.4.1, 9.5, 9.7, 14.1.1.3
Defective or Nonconforming Work, Acceptance, Rejection and Correction of
2.5, 3.5, 4.2.6, 6.2.3, 9.5.1, 9.5.3, 9.6.6, 9.8.2, 9.9.3, 9.10.4, 12.2.1
Definitions
1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 5.1, 6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1, 15.1.1
Delays and Extensions of Time
3.2, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, 8.3, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5
Digital Data Use and Transmission
1.7
Disputes
6.3, 7.3.9, 15.1, 15.2
Drawings and Samples at the Site
3.11
Drawings, Definition of
1.1.5
Drawings and Specifications, Use and Ownership of
3.11
Effective Date of Insurance
8.2.2
Emergencies
10.4, 14.1.1.2, 15.1.5
Employer's Contractor's
3.12.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3.3, 11.3, 14.1, 14.2.1.1
Equipment, Labor, or Materials
1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2
Execution and Progress of the Work
1.1.3, 1.2.1, 1.2.2, 2.3.4, 2.3.6, 3.1, 3.3.1, 3.4.1, 3.7.1, 3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.6, 8.2, 9.5.1, 9.9.1, 10.2, 10.3, 12.1, 12.2, 14.2, 14.3.1, 15.1.4
Extensions of Time
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 9.5.1, 9.7, 10.3.2, 10.4, 14.3, 15.1.6, 15.2.5

5

6

AIA Document A201 - 2017. Copyright © 1911, 1915, 1916, 1925, 1927, 1951, 1956, 1961, 1963, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. Is not for resale. Is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@iaacontracts.com. User Notes: (SBSAD437)

AIA Document A201 - 2017. Copyright © 1911, 1915, 1916, 1925, 1927, 1951, 1956, 1961, 1963, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. Is not for resale. Is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@iaacontracts.com. User Notes: (SBSAD437)



Modifications, Definition of 1.1.1
Modifications to the Contract 1.1.1, 1.1.2, 2.5, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7, 10.3.2
Mutual Responsibility 6.2
Nonconforming Work, Acceptance of 9.6.6, 9.9.3, 12.3
Nonconforming Work, Rejection and Correction of 2.4, 2.5, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4, 12.2
Notice 1.6, 1.6.1, 1.6.2, 2.1.2, 2.2.2, 2.2.3, 2.2.4, 2.5, 3.2.4, 3.3.1, 3.7.4, 3.7.5, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 7.4, 8.2.2, 9.6.8, 9.7, 9.10.1, 10.2.8, 10.3.2, 11.5, 12.2.2.1, 13.4.1, 13.4.2, 14.1, 14.2.2, 14.4.2, 15.1.3, 15.1.5, 15.1.6, 15.4.1
Notice of Cancellation or Expiration of Insurance 11.1.4, 11.2.3
Notice of Claims 1.6.2, 2.1.2, 3.7.4, 9.6.8, 10.2.8, 15.1.3, 15.1.5, 15.1.6, 15.2.8, 15.3.2, 15.4.1
Notice of Testing and Inspections 13.4.1, 13.4.2
Observations, Contractor's 3.2, 3.7.4
Occupancy 2.3.1, 9.6.6, 9.8
Orders, Written 1.1.1, 2.4, 3.9.2, 7, 8.2.2, 11.5, 12.1, 12.2.2.1, 13.4.2, 14.3.1
OWNER 2
Owner, Definition of 2.1.1
Owner, Evidence of Financial Arrangements 2.2, 13.2.2, 14.1.1.4
Owner, Information and Services Required of the 2.1.2, 2.2, 2.3, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5, 9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.5.3, 11.2, 13.4.1, 13.4.2, 14.1.1.4, 14.1.4, 15.1.4
Owner's Authority 1.5, 2.1.1, 2.2.3.2.4, 2.5, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1, 7.3.1, 8.2.2, 8.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1, 9.10.2, 10.3.2, 11.4, 11.5, 12.2.2, 12.3, 13.2.2, 14.3, 14.4, 15.2.7
Owner's Insurance 11.2
Owner's Relationship with Subcontractors 1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2
Owner's Right to Carry Out the Work 2.5, 14.2.2
Owner's Right to Clean Up 6.3
Owner's Right to Perform Construction and to Award

Separate Contracts 6.1
Owner's Right to Stop the Work 2.4
Owner's Right to Suspend the Work 14.3
Owner's Right to Terminate the Contract 14.2, 14.4
Ownership and Use of Drawings, Specifications and Other Instruments of Service 1.1.1, 1.1.6, 1.1.7, 1.5, 2.3.6, 3.2.2, 3.11, 3.17, 4.2.1.2, 5.3
Partial Occupancy or Use 9.6.6, 9.9
Patching, Cutting and 3.14, 6.2.5
Patents 3.17
Payment, Applications for 4.2.5, 7.3.9, 9.2, 9.3, 9.4, 9.5, 9.6.3, 9.7, 9.8.5, 9.10.1, 14.2.3, 14.2.4, 14.4.3
Payment, Certificates for 4.2.5, 4.2.9, 9.3.3, 9.4, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1, 9.10.3, 14.1.1.3, 14.2.4
Payment, Failure of 9.5.1.3, 9.7, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2
Payment, Final 4.2.1, 4.2.9, 9.10, 12.3, 14.2.4, 14.4.3
Payment Bond, Performance Bond and 7.3.4.4, 9.6.7, 9.10.3, 11.1.2
Payments, Progress 9.3, 9.6, 9.8.5, 9.10.3, 14.2.3, 15.1.4
PAYMENTS AND COMPLETION 9
Payments to Subcontractors 5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 14.2.1.2
PCB 10.3.1
Performance Bond and Payment Bond 7.3.4.4, 9.6.7, 9.10.3, 11.1.2
Permits, Fees, Notices and Compliance with Laws 2.3.1, 3.7, 3.13, 7.3.4.4, 10.2.2
PERSONS AND PROPERTY, PROTECTION OF 10
Polychlorinated Biphenyl 10.3.1
Product Data, Definition of 3.12.2
Product Data and Samples, Shop Drawings 3.11, 3.12, 4.2.7
Progress and Completion 4.2.2, 8.2, 9.8, 9.9.1, 14.1.4, 15.1.4
Progress Payments 9.3, 9.6, 9.8.5, 9.10.3, 14.2.3, 15.1.4
Project, Definition of 1.1.4
Project Representatives

PROPERTY INSURANCE 10.2.5, 11.2
Proposal Requirements 1.1.1
PROTECTION OF PERSONS AND PROPERTY 10
Regulations and Laws 1.5, 2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 9.9.1, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14, 15.2.8, 15.4
Rejection of Work 4.2.6, 12.2.1
Releases and Waivers of Liens 9.3.1, 9.10.2
Representations 3.2.1, 3.5, 3.12.6, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.10.1
Representatives 2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.10, 13.2.1
Responsibility for Those Performing the Work 3.3.2, 3.18, 4.2.2, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10
Retainage 9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3
Review of Contract Documents and Field Conditions by Contractor 3.2, 3.12.7, 6.1.3
Review of Contractor's Submittals by Owner and Architect 3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2
Review of Shop Drawings, Product Data and Samples by Contractor 3.12
Rights and Remedies 1.1.2, 2.4, 2.5, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1, 6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.1, 12.2.2, 12.2.4, 13.3, 14, 15.4
Royalties, Patents and Copyrights 3.17
Rules and Notices for Arbitration 15.4.1
Safety of Persons and Property 10.2, 10.4
Safety Precautions and Programs 3.3.1, 4.2.2, 4.2.7, 5.3, 10.1, 10.2, 10.4
Samples, Definition of 3.12.3
Samples, Shop Drawings, Product Data and 3.11, 3.12, 4.2.7
Samples at the Site, Documents and 3.11
Schedule of Values 9.2, 9.3.1
Schedules, Construction 3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2
Separate Contracts and Contractors 1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2
Separate Contractors, Definition of

6.1.1
Shop Drawings, Definition of 3.12.1
Shop Drawings, Product Data and Samples 3.11, 3.12, 4.2.7
Site, Use of 3.13, 6.1.1, 6.2.1
Site Inspections 3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.9.2, 9.4.2, 9.10.1, 13.4
Site Visits, Architect's 3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4
Special Inspections and Testing 4.2.6, 12.2.1, 13.4
Specifications, Definition of 1.1.6
Specifications 1.1.1, 1.1.6, 1.2.2, 1.5, 3.12.10, 3.17, 4.2.1.4
Statute of Limitations 15.1.2, 15.4.1.1
Stopping the Work 2.2.2, 2.4, 9.7, 10.3, 14.1
Stored Materials 6.2.1, 9.3.2, 10.2.1.2, 10.2.4
Subcontractor, Definition of 5.1.1
SUBCONTRACTORS 5
Subcontractors, Work by 1.2.2, 3.3.2, 3.12.1, 3.18, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2, 9.6.7
Subcontractual Relations 5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1
Submittals 3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.4, 9.2, 9.3, 9.8, 9.9.1, 9.10.2, 9.10.3
Submittal Schedule 3.10.2, 3.12.5, 4.2.7
Subrogation, Waivers of 6.1.1, 11.3
Substances, Hazardous 10.3
Substantial Completion 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2, 15.1.2
Substantial Completion, Definition of 9.6.1
Substitution of Subcontractors 5.2.3, 5.2.4
Substitution of Material 2.3.3
Substitutions of Materials 3.4.2, 3.5, 7.3.8
Sub-subcontractor, Definition of 5.1.2
Subsurface Conditions 3.7.4
Successors and Assigns

APPENDIX 2

Int. AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1927, 1951, 1958, 1961, 1965, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. The American Institute of Architects, "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com. User Notes: (389ADA37)

Int. AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1927, 1951, 1958, 1961, 1965, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. The American Institute of Architects, "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com. User Notes: (389ADA37)

13.2
Superintendent 3.9, 10.2.6
Supervision and Construction Procedures 1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.4
Suppliers 1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.5.4, 9.6, 9.10.5, 14.2.1
Surety 5.4.1.2, 9.6.8, 9.8.5, 9.10.2, 9.10.3, 11.1.2, 14.2.2, 15.2.7
Surety, Consent of 9.8.5, 9.10.2, 9.10.3
Surveys 1.1.7, 2.3.4
Suspension by the Owner for Convenience 14.3
Suspension of the Work 3.7.5, 5.4.2, 14.3
Suspension or Termination of the Contract 5.4.1.1, 14
Taxes 3.6, 3.8.2.1, 7.3.4.4
Termination by the Contractor 14.1, 15.1.7
Termination by the Owner for Cause 5.4.1.1, 14.2, 15.1.7
Termination by the Owner for Convenience 14.4
Termination of the Architect 2.3.3
Termination of the Contractor Employment 14.2.2
TERMINATION OR SUSPENSION OF THE CONTRACT 14
Tests and Inspections 3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 10.3.2, 12.2.1, 13.4
TIME 8
Time, Delays and Extensions of 3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, 8.3, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5
Time Limits

2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15.1.2, 15.1.3, 15.4
Time Limits on Claims 3.7.4, 10.2.8, 15.1.2, 15.1.3
Title to Work 9.3.2, 9.3.3
UNCOVERING AND CORRECTION OF WORK 12
Uncovering of Work 12.1
Unforeseen Conditions, Concealed or Unknown 3.7.4, 8.3.1, 10.3
Unit Prices 7.3.3.2, 9.1.2
Use of Documents 1.1.1, 1.5, 2.3.6, 3.12.6, 5.3
Use of Site 3.13, 6.1.1, 6.2.1
Values, Schedule of 9.2, 9.3.1
Waiver of Claims by the Architect 13.3.2
Waiver of Claims by the Contractor 9.10.5, 13.3.2, 15.1.7
Waiver of Claims by the Owner 9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.3.2, 14.2.4, 15.1.7
Waiver of Consequential Damages 14.2.4, 15.1.7
Waiver of Liens 9.3, 9.10.2, 9.10.4
Waivers of Subrogation 6.1.1, 11.3
Warranty 3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.2, 9.10.4, 12.2.2, 15.1.2
Weather Delays 8.3, 15.1.6.2
Work, Definition of 1.1.3
Written Consent 1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.10.3, 13.2, 13.3.2, 15.4.4.2
Written Interpretations 4.2.1.1, 4.2.1.2
Written Orders 1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

ARTICLE 1 GENERAL PROVISIONS
§ 1.1 Basic Definitions
§ 1.1.1 The Contract Documents
The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.
§ 1.1.2 The Contract
The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor.
§ 1.1.3 The Work
The term "Work" means the construction and services required by the Contract Documents 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 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.



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.

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 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 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.

12.1.1 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.

12.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

12.3 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 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

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1989, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. (38BADA37)

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1989, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. (38BADA37)

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 persistently 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 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.

3.2.2 The Contractor shall, before starting each portion of the Work, review 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.

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1989, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. (38BADA37)

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 unless the Contractor recognized such error, inconsistency, omission, difference, or non-conformity and knowingly failed to report it.

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.

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 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 nonconforming. The Contractor's warranty excludes

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1989, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. (38BADA37)

Int.

Int.

Int.

Int.

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. Other than the above, the Contractor makes no other warranty, representation, or guarantee, whether express or implied, and such are expressly disclaimed.

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 applicable building permits 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 21 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,
AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1968, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiainc.com.
User Notes: (98BADA37)

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.

(Paragraph Deleted)

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 that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Contractor, in making this representation, is relying on the Architect's having fully coordinated the design drawings.

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

(Paragraph Deleted)

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

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1968, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiainc.com.
User Notes: (98BADA37)

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 Contractor may revise such schedule in its discretion and without prior notice. In the event the schedule is so modified, Contractor shall promptly submit the revised schedule to Owner and Architect. 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.

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

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

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

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 the conclusion 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
3.17.1 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.

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.

May 22, 2023

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1968, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiainc.com.
User Notes: (98BADA37)

APPENDIX 2

Minutes & Agenda Council 2023 20230522 Minutes.docx

3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor...

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.

4.2 Administration of the Contract

4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents during construction until the date the Architect issues the final Certificate for Payment.

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...

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...

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.

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.

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

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1981, 1983, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved.

(3B9ADA37)

including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Owner may notify the Contractor whether the Owner (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review.

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.

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.

5.4 Contingent Assignment of Subcontracts

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

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

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

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

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

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1981, 1983, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved.

(3B9ADA37)

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.

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.

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 of the persons or entities proposed for each principal portion of the Work,

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1981, 1983, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved.

(3B9ADA37)

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 when directed to do so. 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.

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.

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

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

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

6.3 Owner's Right to Clean Up

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

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1981, 1983, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved.

(3B9ADA37)

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 and stating a proposed basis for 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 The Construction Change Directive shall provide 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.

MINUTE BOOK 95

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. The Architect's determination, as specified above, shall not be less than the actual costs expended by the Contractor in performing the changed Work. If the Architect's determination is believed by the Contractor to be less than its actual costs (incurred or projected) in performing the Work, the Contractor may initiate dispute resolution procedures pursuant to Article 15.

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 as established in Section 9.8.

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

8.2 Progress and Completion

8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract.

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 and Contract Sum 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.

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 but not yet included in Change Orders.

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

9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon

compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submission 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 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 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, 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;

(Paragraph Deleted)

- 5 damage to the Owner or a Separate Contractor;

(Paragraph Deleted)

- 7 persistent 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.

APPENDIX 2

May 22, 2023

Minutes & Appendix Council 2023-2023-05-22 Minutes.docx



§ 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.

(Paragraph Deleted)

§ 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 and 9.6.4.

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

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

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

§ 9.7 Failure of Payment

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

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1983, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (38BADA37)

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 list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

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

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

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

§ 9.9 Partial Occupancy or Use

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

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1983, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (38BADA37)

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.

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

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

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

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

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

§ 10.2 Safety of Persons and Property

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

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

I:\Minutes & Agendas\Council\2023\20230522\_Minutes.docx  
AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1983, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (38BADA37)

§ 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.

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1983, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (38BADA37)

APPENDIX 2

May 22, 2023

§ 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.

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

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

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

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

§ 12.3 Acceptance of Nonconforming Work

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

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

§ 13.2 Successors and Assigns

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

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

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

(Paragraphs Deleted)

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 unless the condition was caused by the Owner or a Separate Contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

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

§ 12.2.2 After Substantial Completion

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

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

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.

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 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 60 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 executed.

§ 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

APPENDIX 2

days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

properly executed; costs incurred by reason of the termination, including costs attributable to completion of Subcontracts; and the termination fee, if any, set forth in the Agreement.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- 1. persistently refuses or fails to supply enough properly skilled workers or proper materials;
2. fails to make payment to Subcontractors or suppliers when due in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
3. persistently 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

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. The American Institute of Architects' "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 18:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale. It is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiaccontract.com. User Notes: (88BAD3A7)

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, 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:

AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. The American Institute of Architects' "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 18:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale. It is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiaccontract.com. User Notes: (88BAD3A7)

- 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 to supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim. If the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

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

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

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

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

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

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

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

§ 15.3 Mediation

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

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

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

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

§ 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 of 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.

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 18:18:13 ET on 05/22/2023.

PAGE 1

Jimison Trail  
Mountain Brook, Alabama

The City of Mountain Brook  
56 Church Street  
Mountain Brook, Alabama 35213

Ninrod Long and Associates, Inc.  
880 Montclair Road, Ste 235  
Birmingham, AL 35213

PAGE 10

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.~~

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.

PAGE 12

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. ~~The 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.~~

Additions and Deletions Report for AIA Document A201 - 2017. Copyright © 1911, 1915, 1916, 1925, 1937, 1951, 1958, 1981, 1983, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 18:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (389ADA37)

ordinances, codes, rules and regulations, and lawful orders of public authorities. ~~authorities~~ ~~recognized such error, inconsistency, omission, difference, or non-conformity and knowingly failed to report it.~~

§ 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.~~

PAGE 15

§ 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. ~~nonconforming.~~ 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. ~~Other than the above, the Contractor makes no other warranty, representation or guarantee, whether express or implied, and such are expressly disclaimed.~~

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit-applicable building permits 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.

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 44-21 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.

PAGE 16

§ 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 Contractor may revise such schedule in its discretion and without prior notice. In the event the schedule is so modified, the Contractor shall promptly submit the~~

Additions and Deletions Report for AIA Document A201 - 2017. Copyright © 1911, 1915, 1916, 1925, 1937, 1951, 1958, 1981, 1983, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 18:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (389ADA37)

AIA Document A201 - 2017. Copyright © 1911, 1915, 1916, 1925, 1937, 1951, 1958, 1981, 1983, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 18:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (389ADA37)

~~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.~~

§ 2.2.2 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.

PAGE 13

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 or persistently 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.

§ 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 conducted personal observations with requirements of the Contract Documents performed.

PAGE 14

§ 3.2.2 ~~Because the Contract Documents are complementary, the~~ The Contractor shall, before starting each portion of the Work, ~~carefully study and compare~~ review 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.

§ 3.2.4 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,

J:\Minutes & Agendas\Council\2023\20230522 Minutes.docx

Additions and Deletions Report for AIA Document A201 - 2017. Copyright © 1911, 1915, 1916, 1925, 1937, 1951, 1958, 1981, 1983, 1986, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 18:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (389ADA37)

APPENDIX 2



revised schedule to Owner and Architect. The schedule shall contain detail appropriate for the Project, including the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion.

PAGE 17

3.4.2.4 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.

3.1.2.5 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.

3.4.2.5 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.

PAGE 18

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.

3.1.8.1 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.

Additions and Deletions Report for AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1956, 1961, 1963, 1968, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (3BBA0437)

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 when directed to do so. 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 schedule to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

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 or actually known to Contractor.

PAGE 23

7.3.1.4 Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing and stating a proposed basis for 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.

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

PAGE 24

7.3.1.0 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. The Architect's determination as specified above shall not be less than the actual costs expended by the Contractor in performing the changed Work. If the Architect's determination is believed by the Contractor to be less than its actual costs (incurred or projected) in performing the Work, the Contractor may initiate dispute resolution procedures pursuant to Article 15.

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.

J:\Minutes & Agendas\Council\2023\20230522 Minutes.docx
Additions and Deletions Report for AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1956, 1961, 1963, 1968, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (3BBA0437)

bridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a third person described in this Section 3.18.

PAGE 19

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.

PAGE 21

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-Owner 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.

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.

PAGE 22

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. If the Contractor claims that delays or additional cost involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

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

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.

PAGE 25

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 and Contract Sum shall be extended for such reasonable time as the Architect may determine.

9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect requires, 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 require.

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, Directives but not yet included in Change Orders.

PAGE 26

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, that 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.

9.5.1 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

Additions and Deletions Report for AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1956, 1961, 1963, 1968, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (3BBA0437)

APPENDIX 2

May 22, 2023

subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to the Contractor, 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

2 third party claims filed or reasonable evidence indicating probable filing of such claims, filed, unless security acceptable to the Owner is provided by the Contractor;

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 persistent failure to carry out the Work in accordance with the Contract Documents.

PAGE 27

9.6.2 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.

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

PAGE 28

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.

PAGE 29

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

Additions and Deletions Report for AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. The American Institute of Architects, "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (358AD437)

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.

§ 11.2 Waivers of Subrogation

11.2.1 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 11.2.1 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.

11.2.2 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 11.2.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

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

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

§ 11.5 Adjustment and Settlement of Insured Loss

I:\Minutes & Agendas\Council\2023\20230522 Minutes.docx  
Additions and Deletions Report for AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. The American Institute of Architects, "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (358AD437)

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.

PAGE 31

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.

PAGE 32

§ 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

Additions and Deletions Report for AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. The American Institute of Architects, "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (358AD437)

11.2.4 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 mortgage clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just share 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.

11.2.5 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.

11.2.6 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 unless the condition was caused by the Owner or a Separate Contractor in which event the Owner shall be responsible for payment of such costs.

PAGE 34

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 writing.

11.4.1 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:

11.4.2 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, of 120-60 days in any 365-day period, whichever is less.

11.4.3 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,

May 22, 2023  
Additions and Deletions Report for AIA Document A201 - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. The American Institute of Architects, "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No.2114432228 which expires on 05/03/2024. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com. User Notes: (358AD437)

PAGE 35

1. repeatedly/persistently refuses or fails to supply enough properly skilled workers or proper materials;
2. fails to make payment to Subcontractors or suppliers when due in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
3. repeatedly/persistently disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

PAGE 36

§ 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.

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 16:18:13 ET on 05/22/2023 under Order No. 2114432228 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)

(Title)

(Dated)

APPENDIX 2

Additions and Deletions Report for AIA Document A201 – 2017, Copyright © 1911, 1915, 1916, 1925, 1937, 1951, 1956, 1961, 1963, 1956, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No. 2114432228 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiscontracts.com. User Notes: (389ADA37)

AIA Document D401 – 2003, Copyright © 1992 and 2003. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 16:18:13 ET on 05/22/2023 under Order No. 2114432228 which expires on 05/03/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiscontracts.com. User Notes: (389ADA37)

12

1

Exhibit A, Change Order No. 1

Description of Contract Changes and Deductions from Contract Sum:

1. Delete one picnic terrace and associated asphalt trail per Architect's Memorandum issued April 27, 2023: \$ <27,678.00>
2. Delete stone border in picnic area per Architect's Memorandum dated April 27, 2023: \$ <31,120.00>
3. Delete two stone end piers at picnic area and parking per Architect's Memorandum dated April 27, 2023: \$ <4,285.00>
4. Delete new parking area and associated asphalt path west of picnic area per Architect's Memorandum dated April 27, 2023: \$ <22,005.00>
5. Use precast concrete headwalls with stone veneer and cap instead of stone headwall design shown in Detail 9/HD-2 (stone veneer will be installed on the front, sides and exposed apron of the headwall): \$ <41,145.00>
6. Revise stone end treatment to No 34 moss rock stone and based on the dimensions below: \$ <\$56,767.00>
  - a. 15" diameter pipe – 6' x 6'
  - b. 18" & 24" diameter pipe – 8' x 8'
  - c. 30" & 36" diameter pipe – 12' x 10'
7. Delete penalty/bonus clause stated in Owner/Contractor Agreement, Paragraph 4.5 and Section 0100000, General Requirements, Paragraph 1.7.E: \$ <\$50,000.00>
8. Allow contractor access to entire project site to compress overall schedule: \$ <\$67,000.00>

 AIA® Document G701® – 2017

Change Order

<b>PROJECT:</b> (Name and address) Jemison Trail Mountain Brook, AL	<b>CONTRACT INFORMATION:</b> Contract For: General Construction Date: May 22, 2023	<b>CHANGE ORDER INFORMATION:</b> Change Order Number: 001 Date: May 23, 2023
<b>OWNER:</b> (Name and address) The City of Mountain Brook 56 Church Street Mountain Brook, AL 35213	<b>ARCHITECT:</b> (Name and address) Nimrod Long and Associates, Inc. 880 Montclair Road, Ste 235 Birmingham, AL 35213	<b>CONTRACTOR:</b> (Name and address) C.S. Beatty Construction, Inc. 1 Civitan Place Birmingham, AL 35213

THE CONTRACT IS CHANGED AS FOLLOWS:  
(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)  
See Exhibit A, attached for description of Contract Changes.

The original Contract Sum was	\$ 3,330,735.00
The net change by previously authorized Change Orders	\$ 0.00
The Contract Sum prior to this Change Order was	\$ 3,330,735.00
The Contract Sum will be decreased by this Change Order in the amount of	\$ 336,900.00
The new Contract Sum including this Change Order will be	\$ 2,993,835.00
The Contract Time will be increased by Seventy (70) days.	
The new date of Substantial Completion will be Two Hundred Seventy (270) calendar days from Notice to Proceed issued by the Owner.	

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Nimrod Long and Associates, Inc. ARCHITECT (Firm name)	C.S. Beatty Construction, Inc. CONTRACTOR (Firm name)	The City of Mountain Brook OWNER (Firm name)
SIGNATURE	SIGNATURE	SIGNATURE
Joel Elias III, President		Mayor
PRINTED NAME AND TITLE	PRINTED NAME AND TITLE	PRINTED NAME AND TITLE
DATE	DATE	DATE

This COST SHARING AGREEMENT ("Agreement") is made and entered into between the City of Mountain Brook, Alabama (hereinafter "City") and The Friends of Jemison Park ("Friends"). This Agreement shall be effective on the date last signed below by a party.

WITNESSETH:

WHEREAS, the Friends of Jemison Park is a non-profit organization formed and dedicated to support Robert Jemison Jr. Park ("Park"), a preserved area located in the City that provides a mature treescap, a buffer to Shades Creek, a "gateway" into the City and recreational opportunities through the use of its sidewalks and trails; and

WHEREAS, the Park is in need of certain repairs, improvements and renovations to enhance the Park's condition and the City and Friends have agreed to undertake the improvement project (the "Project") as set forth in the plans and specifications attached hereto as Exhibit A; and

WHEREAS, the City has agreed to manage and administer the Project as a Public Works Project of the City, based on the terms, conditions and understandings set forth in this Agreement; and

WHEREAS, both the City and Friends have determined that it is in their respective interests to proceed with the Project and to enter into this funding agreement to set forth the terms, conditions and expectations attendant to payment and administration; and

WHEREAS, the City has solicited and received bids on the Project and intends to award the bid to C.S. Beatty Construction, Inc. (the "Contractor") at a total contract amount of \$3,330,735.00 less a deductive change order to be processed after contract execution of \$300,000.00 and the cost of permits and bonds of \$37,500.00, which is being waived by the City, for a total net contract amount of \$2,993,235.00 (the "Net Contract Amount"); and

WHEREAS, the City's share of the Net Contract Amount shall be \$1,610,000.00 (the "City Share") and Friends shall be responsible for the remainder of the Net Contract Amount (the "Friends Share"); and

WHEREAS, the completion of the Project will serve a public purpose, promote the general health and welfare of the citizens of the City, provide tangible benefits for residents of the City and further the purposes for which Friends was established.

NOW, THEREFORE, in consideration of the mutual covenants herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, the Friends and City agree as follows:

- 1. *Services.* City shall complete or have completed on its behalf the work in accordance with the Project Plans and specifications set forth in Exhibit A (the "Services").
- 2. *Administration of Project.* City shall be responsible for administration and oversight of the Project. City shall provide Friends with copies of progress reports and payment requests as they are received from Contractor. Friends shall not be responsible for costs incurred as a result of change orders on the Project unless such change orders are submitted to and approved by Friends before the

The Contract Representatives designated above shall have the authority to act on behalf of the respective parties to transmit instructions, receive information and administer the Agreement consistent with its terms and conditions. Either party may designate a Contract Representative other than the person named above upon provision of written notice to the other.

- 7. *Notices.* Any notice required hereunder shall be sufficiently given when given in writing and sent to the appropriate Contract Representatives via United States certified mail, return receipt requested, or via overnight courier with receipt verification to the address set forth herein, or by personally delivering such notice to that party.
- 8. *Dispute Resolution.* The Contract Representatives of the parties will use their good faith efforts to resolve any dispute or claim between them arising from the performance or failure to perform their respective obligations under this Agreement (a "Dispute"). In the event that those Representatives are unable to amicably resolve a Dispute, either party may request that the Dispute be mediated.

9. *Miscellaneous Provisions.*

- (a) This Agreement does not create any partnership, joint venture or principal-agent relationship between the Friends and the City.
- (b) Neither party shall have the right to assign this Agreement, or any of its rights, obligations or the benefits hereunder, to any other party without prior written approval of the other party.
- (c) The Agreement is made only for the benefit of the City and the Friends. It is not intended, nor shall it be construed, to grant or bestow any benefit, right or privilege to any third party.
- (d) This Agreement comprises the entire agreement between the parties. These terms herein supersede all prior negotiations, representations, or agreements, either written or oral, concerning the subjects herein, and any such prior understandings concerning those matters are of no effect and are merged into this Agreement.
- (e) This Agreement may be amended or modified only by written instrument signed by both parties.
- (f) This Agreement may be executed in counterparts each of which when executed by the parties shall be deemed to be a complete original. Copies of this Agreement showing the signatures of the respective parties, whether produced by photographic, digital, computer, or other reproduction, may be used for all purposes as originals, and shall have the same legal force and effect as an original document.
- (g) If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the remaining provisions of it shall remain in full force and effect.

(h) The meaning, legal effect, and enforcement of terms and provisions of the Agreement and the resolution of any disputes arising thereunder or relating thereto shall be governed by the laws of the State of Alabama, except to the extent otherwise required by applicable conflict-of-law principles.

(i) Friends represents and warrants that (a) it does not knowingly employ, hire, or employ, or continue to employ an "unauthorized alien," as defined by the *Beason-Hammon Alabama Taxpayer*

work authorized thereby is performed. Friends shall have the right to inspect the Project upon reasonable notice to City and to Contractor. Friends shall not have the right or authority to authorize any work, direct the work or to administer the Project in any respect.

3. *Payment.* On or before June 15<sup>th</sup>, 2023, Friends shall deposit with City the amount of \$1,000,000.00 (the "Initial Deposit") to be applied to the cost of the Project. City shall hold the Initial Deposit in its account to be applied to Project related costs as they are incurred. City shall be permitted to utilize the Initial Deposit for such purposes without any additional authority or assent from Friends; provided, however, that City shall provide notice of each request for payment from Contractor to City before making each such payment and shall further provide notice of each payment to Contractor by City using funds provided by the Initial Deposit, specifying the amount of the Initial Deposit utilized for each such payment and the amount of the balance of the Initial Deposit after such payment is made. On the earlier of October 1, 2023 or the date of completion of the Project, Friends shall deposit the amount of \$383,235.00 (the "Remaining Deposit") with the City to be applied toward the cost of the Project. City shall hold the Remaining Deposit in its account to be applied to Project related costs as they are incurred. City shall be permitted to utilize the Remaining Deposit for such purposes without any additional authority or assent from Friends; provided, however, that City shall provide notice of each request for payment from Contractor to City before making each such payment and shall further provide notice of each payment to Contractor by City using funds provided by the Remaining Deposit, specifying the amount of the Remaining Deposit utilized for each such payment and the amount of the balance of the Remaining Deposit after such payment is made.

4. *Property of City.* After the contemplated improvements and alterations are constructed, all such improvements shall adhere to Jemison Park and become property of the City.

5. *Term.* The term shall begin when this Contract is executed by both parties and will extend for such time until the completion of the Project pursuant to the contract documents between the City and Contractor.

6. *Contract Representatives.* Each party shall appoint a representative(s) who shall coordinate with the other party on matters pertinent to this Contract (the "Contract Representative(s)").

The City's Contract Representative is:

Shanda Williams  
Superintendent of Parks and Recreation  
3698 Bethune Drive  
Mountain Brook, Alabama 35213  
Tel No: (205) 802-3879

Friends' Contract Representative is:

Sally Worthen  
President, Friends of Jemison Park  
P.O. Box 530813  
Mountain Brook, Alabama 35253  
Tel No: (205) 215-8621

APPENDIX 3

and *Citizen Protection Act*, Act No. 2011-535 (H. B. 56), as amended from time to time (the "Act") and that, during the performance of the services and Project, it shall participate in the E-Verify program if it is so required under the terms of the Act; (b) it will comply with all applicable provisions of the Act with respect to its consultants and subcontractors by entering into an agreement with or by obtaining an affidavit from them providing that they are in compliance with the Act with respect to their participation in the E-verify program; and (c) it shall not hire, retain or contract with any consultant or subcontractor that it knows is not in compliance with the Act. Friends further agrees and warrants that it will fully comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, in its hiring and employment practices, and that if it receives actual knowledge of the unauthorized status of one of its employees in the State of Alabama, it will remove that employee from the project, jobsite or premises of the City and shall require each of its subcontractors, or other parties with whom it has a contract, to act in a similar fashion. If Friends violates any term of this paragraph, this Agreement will be subject to immediate termination by City. To the fullest extent permitted by law, Friends shall defend, indemnify and hold harmless City from any and all losses, consequential damages, expenses (including, but not limited to, attorneys' fees), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to City's failure to fulfill its obligations contained in this provision.

(j) Upon reasonable advance notice from Friends, City agrees to produce records maintained by it with respect to the Project and otherwise participate in an audit designed by Friends to evaluate whether the City is properly completing, accounting and performing the obligations contemplated hereunder. To facilitate any such audit, the City agrees that, for a period of no less than (2) years following the completion of the Project or the expiration (or earlier termination) of this Agreement, it will maintain its reports, logs and records concerning the Project and use of funds provided by Friends hereunder.

IN WITNESS WHEREOF, the undersigned, duly authorized representatives of the parties have executed this Contract on behalf of their respective organization.

[Remainder of page left blank intentionally - Signature page to follow]

ATTEST

By: Carole M Epstein  
Its: Exec. Asst.  
Date: 5/23/2023

By: Sally V. Worthen  
Its: President

CITY OF MOUNTAIN BROOK, ALABAMA

ATTEST  
By: Shelby Richards  
Its: City Clerk  
Date: 5-22-23

By: [Signature]  
Its: Mayor

APPENDIX 3





May 17, 2023

City of Mountain Brook  
C/O Skipper Consulting

RE: Flashing Beacon & Sign  
Overton Road Near North Woodbridge Road

Attn: Richard Caudle

Richard,

Our price for the above referenced work based on your drawings dated 5/5/2023 will be as follows:

**\$36,439.58**

Lead time on this equipment is quoted by our vendor at 20-30 weeks after approval of submittal information.

Best Regards,

Mitchel Clay  
Project Manager

2530 Queenstown Road • Birmingham, AL 35210 • Office: (205) 833-8494 • Fax: (205) 833-9390

STONE & SONS ELECTRICAL CONTRACTORS, INC. (hereinafter referred to as the "Contractor") enters into this Agreement to Install Flashing Lights and Signs Equipment ("Agreement") with the CITY OF MOUNTAIN BROOK, ALABAMA, a municipal corporation ("City") effective as of the date last executed by a party below (the "Effective Date").

1. **Scope of Project.** The Contractor will provide and furnish all labor, materials, equipment, and services necessary to perform the following project (the "Project") in accordance with the terms, conditions and specifications set forth herein:

- Install an assembly of flashing lights and signs near the intersection of Overton Road at North Woodridge Road in the City of Mountain Brook. Contractor's operations generally include installation of one (1) 14 foot aluminum pole with transformer base and concrete foundation, pole to be equipped with one (1) two-section signal head, a controller cabinet with battery backup, and vehicle detection. Contractor is required to construct a power service and arrange for power with local power service provider, in conjunction with the City.
- Contractor shall provide and install all materials and equipment to be according to the plans prepared by Skipper Consulting, Inc. dated May 5, 2023, which are attached and incorporated herein as Exhibit A; and
- Contractor shall be responsible for utility location and traffic control during construction.

All of the operations to be performed by Contractor on the Project collectively may be referenced herein as the "Work."

2. **Project Schedule.** Contractor will order the materials and equipment needed for the Work as soon as possible after the Effective Date. Contractor agrees to perform the Work and finish the Project within two hundred and ten (210) calendar days after the Effective Date.

3. **Termination.** The City may terminate this Agreement if the Contractor defaults on a material obligation to the City hereunder (a "Default"), and, following the City's provision of written notice of Default to Contractor, the Contractor fails to correct or remedy the Default within seven (7) days after receipt of notice. The failure of the Contractor to timely perform the Work shall be considered an event of Default. This remedy is in addition to any other provided in the Agreement or available by law.

Additionally and notwithstanding any other provision herein, the City, effective upon provision of written notice to Contractor, may terminate this Agreement without any liability, penalty or obligation to make payment for services or Work rendered after the effective date of termination if its governing body does not appropriate or allocate funds

APPENDIX 4

for payment of the Project. In the event of such termination for non-appropriation, the City shall remain obligated to pay for services or Work furnished prior to termination.

4. **Warranties of Contractor.** The Contractor warrants each of the following with respect to its Work and the Project:

- (a) that it expeditiously will perform its Work in a good and workmanlike manner that is consistent with level of skill and care that would be provided by other contractors performing operations under the same or similar conditions, and in accordance with the Project schedule;
- (b) that it, and all of its employees or subcontractors, will complete the Work in compliance with all codes, laws and regulations that are applicable to the Project;
- (c) that before commencing the Work, at its own expense, the Contractor will obtain all licenses, permits or other governmental authorizations needed to complete the Project, including without limitation, a business license and building permit issued by the City (collectively, "Licensing"). Contractor further agrees to maintain that Licensing throughout the performance of the Project;
- (d) that it has inspected the locations at which it will perform the Work, and, based on that inspection and its expertise, that it has determined that each of those sites is reasonably suitable for Contractor to complete the Work;
- (e) that the Contractor shall be responsible to remove and properly dispose of any debris related to its completion of the Project, and that it will leave each location where the Work is performed in reasonably clean condition;
- (f) that the Work will be free of any material defects in workmanship and materials for a period of one (1) year that shall commence on the date of completion of the Project; and
- (g) that all actions required to be taken by or on behalf of the Contractor to enter or execute this Agreement, and to perform its obligations and agreements hereunder, have been duly taken, and the person signing below on behalf of the Contractor is authorized to execute this Agreement.

5. **Insurance/Safety/Indemnification.**

(a) **Insurance.** For the duration of this Agreement and for limits not less than stated below, the Contractor, at its sole expense, shall maintain the following insurance with a company(ies) lawfully authorized to do business in Alabama and reasonably acceptable to City:

- (i) **Comprehensive General Liability:** One Million Dollars (\$1,000,000), combined single limit and aggregate for bodily injury and property damage;
- (ii) **Automobile Liability:** Automobile Liability covering owned and rented vehicles operated by the Architect with policy limits of not less than One Million Dollars (\$1,000,000) combined single limit and aggregate for bodily injury and property damage; and
- (iii) **Workers Compensation:** Workers' Compensation as required by statute.

The Contractor may satisfy its insurance obligations hereunder through a combination of primary, umbrella and excess policies. Before the execution of this Agreement, the Contractor shall provide City a certificate(s) of insurance evidencing compliance with the requirements in this section. The certificate shall name the City, and its officials and employees, as additional insureds on the Comprehensive General Liability, Automobile Liability, and any applicable umbrella and excess policies.

(b). **Safety.** Contractor agrees that it (a) has the sole responsibility to identify any condition or hazard that will prevent it from safely performing the Work, and (b) is exclusively responsible for performing the Work in a safe manner that does not put at risk the safety of persons or endanger property. Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to: (i) its employees and all other persons who may be affected by the Work; (ii) all the Work and all materials and equipment to be incorporated therein, whether in storage on or off the Work sites, or under the care, custody or control of the Contractor or any of its representatives; and (iii) other property at the Work sites or adjacent thereto.

(c). **Indemnification.** The Contractor agrees to defend, indemnify, and hold harmless the City, and its agents, employees and officials (hereinafter the "Indemnitees") from and against all demands, actions, liabilities, expenses (including reasonable attorney's fees) or claims for damages by any third parties (including any employee, subcontractor or representative of the Contractor, hereafter a "Contractor Representative") that arise out of, relate to or are caused by any negligent act, omission or conduct by Contractor or any Contractor Representative in performing or failing to perform the Work or its (or their) responsibilities under this Agreement; provided that nothing herein shall obligate the Contractor to indemnify any of the Indemnitees for any claims resulting from the negligent conduct or the willful misconduct of the Indemnitees.

(d). Waiver of Consequential Damages. In no event may Contractor recover from the City any special, incidental, consequential or any other indirect damages whatsoever of any description (including, without limitation, damages for lost profits, lost advantage, lost opportunity, loss of savings or revenues or for increased cost of operations) or amount arising from the City's breach of its obligations hereunder.

6. Compensation to Contractor. The total lump sum amount payable by the City to the Contractor for the Work (inclusive of any material and equipment to be supplied by it) shall be Thirty Six Thousand Four Hundred Thirty Nine & 58/100 Dollars (\$36,439.58, hereinafter the "Contractor Charge").

Upon certification from the City Project Representative that Contractor has successfully completed the Project, Contractor will submit an invoice for the entire Contractor Charge, and the City will remit payment for any undisputed amount of that Charge within thirty (30) days after receipt of that invoice.

7. Project Representative. The parties appoint the following respective representative who shall coordinate with the other party on all matters related to the performance of the Work and the administration of this Agreement (the "Project Representative"):

City Project Representative:

Richard Caudle, P.E.  
Skipper Consulting, Inc.  
3644 Vann Road Suite 100  
Birmingham, Alabama 35235  
Email: richard@skipperinc.com  
Office (205) 655-8855 fax (205) 655-8825

Contractor Project Representative:

Mitchell Clay  
Project Manager  
2530 Queenstown Road  
Birmingham, AL 35210  
Email: mclay@stoneandsons.com  
Office (205) 833-8494 fax (205) 833-9390

Any notice required hereunder shall be sufficiently given when sent to the appropriate Project Representative via United States certified mail, return receipt requested, or via overnight courier with receipt verification to the address set forth herein, or by personally delivering such notice to the party to be in receipt thereof.

work on the Project in Alabama which it knows is not in compliance with the Act; and (iv) by signing this Agreement, it affirms, for the duration of the Agreement, that it will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore if Contractor is found to be in violation of this provision, it shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

(Signature Page Follows)

8. Miscellaneous Provisions.

a. This Agreement sets forth the entire understanding between the parties concerning the matters herein, and all oral representations, prior negotiations, understandings, agreements, conditions, and terms discussed between the parties prior to acceptance and signing of this Agreement are deemed to have merged herein. This Agreement may not be modified or amended except in a writing that is signed by all parties.

b. This Agreement may be executed in counterparts each of which when executed by the parties shall be deemed to be a complete original. An electronic or facsimile copy of the executed contract or counterpart shall be deemed, and shall have the same legal force and effect as, an original document.

c. Any forbearance or delay on the part of the City in enforcing any of its rights under this Agreement shall not be construed as a waiver of such rights. No terms of this Agreement shall be waived unless expressly waived in writing.

d. The Contractor may not assign its rights, obligations or the benefits of this Agreement to any third party without the written consent of the City, which consent may be withheld for any reason.

e. This Agreement is made only for the benefit of the City and Contractor. It is not intended, nor shall it be construed, to grant or bestow any benefit, right or privilege to any third party.

f. Contractor is an independent contractor of the City. This Agreement does not create any partnership, joint venture or principal-agent relationship between the City and Contractor. Further, the City retains no control or authority with respect to its means and methods in which the Contractor (or any of its employees or representatives) performs the Work.

g. Immigration Law Compliance. The Contractor represents and warrants to the City that: (i) it does not knowingly employ, hire for employment, or continue to employ, in Alabama, an "unauthorized alien," as defined by the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, §31-13-1, et seq., Code of Alabama 1975, as amended (the "Act"); (ii) it will enroll in the E-Verify program prior to performing any work on the Project in Alabama and shall provide documentation establishing that it is enrolled in the E-Verify program. During the performance of this Agreement, the Contractor shall participate in the E-Verify program as required under the terms of the Act and shall verify every employee in Alabama that is required to be verified according to the applicable federal rules and regulations; (iii) it will comply with all applicable provisions of the Act with respect to subcontractors, if any, that it engages on the Project by entering into an agreement with or by obtaining an affidavit from such subcontractors providing work on the Project in Alabama that such subcontractors are in compliance with the Act with respect to their participation in the E-verify program. The Contractor further represents and warrants that it shall not hire, retain or contract with any subcontractor to

IN WITNESS WHEREOF the undersigned, duly authorized representatives of the parties have executed this Agreement on behalf of their respective organization.

STONE & SONS ELECTRICAL CONTRACTORS, INC.

CITY OF MOUNTAIN BROOK, ALABAMA

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

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

Its: \_\_\_\_\_

Its: Mayor

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

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

APPENDIX 4







DATE: May 22, 2023

TO: Mayor, City Council & City Manager

FROM: Dana Hazen, City Planner

RE: CB&S Bank - 7 Office Park Circle

CB&S Bank seeks to locate in Office Park (corner of Hwy 280 and Office Park Circle). The proposed site is zoned Local Business, and is non-conforming with regard to on-site parking, in that the zoning code would require 40 parking spaces if built today, but the site contains 28. The previous use was Southern States Bank for several years, and the site contains a drive-thru.

Please see attached letter of introduction and operational characteristics. Note that the proposed number of employees at a peak hour is 15-20, with some on-site client activity anticipated.

The zoning ordinance requires council approval of service uses as a conditional use, and states that any proposed conditional use will be reviewed as to the following:

- Whether the use would disparately impact public parking in the area;
- Whether vehicular or pedestrian circulation would be impacted by the use;
- Whether the use is compatible with surrounding existing uses;
- Whether the hours of operation or peak traffic times would impact existing uses.

Zoning Map - 7 Office Park Circle



Aerial - 7 Office Park Circle



TO: City of Mountain Brook Alabama

FROM: CB&S Bank

DATE: May 10, 2023

RE: New branch located at 7 Office Park Circle

CB&S Bank has entered into a lease agreement with MTB Office Park, LLC for the purpose of opening and operating a banking office located at 7 Office Park Circle, Mountain Brook, Alabama. Consequently, CB&S Bank is seeking approval for a conditional use business license pursuant to Article XII, Sec. 129-192 (b) (1) of the Mountain Brook Land Development Regulations.

7 Office Park Circle contains approximately 8,000 square feet of banking and office space located near the entrance to Mountain Brook Office Park. The property contains 28 parking spaces which is expected to be more than adequate for normal daily operations.

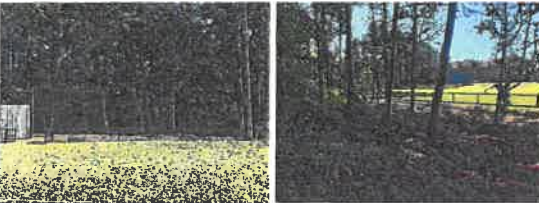
CB&S Bank expects to offer Retail and Commercial Banking, Financial Services as well as house executive and support staff for various areas of the bank. Total staff is expected to be 15 - 20 employees with expected hours of operation to be 8:00 a.m. - 5:00 p.m. Monday - Friday.

Your consideration and approval is very much appreciated and CB&S Bank looks forward to being a part of the Mountain Brook business community. Should you have questions or need additional information, you may reach me directly by calling (256) 331-8463 or via email at [tim.alford@cbsbank.net](mailto:tim.alford@cbsbank.net).

Tim Alford  
Senior Vice President

The Mountain Brook Parks and Recreation Department, along with Mountain Brook Athletics, would like to place a set of batting cages on the outskirts of the field by Cherokee Bend Elementary.

We originally requested to build them in the wooded area outside the open field space. This wooded area is beside the climbing tower on the east side of the field. The photo below was taken on 5/15 and shows the current layout of the field and its relation to the closest neighbors.



The batting cages will be two connecting lanes that are 15' x 55' each. They will share a frame and turf flooring and so the whole footprint will be 30' x 60'. It will be very similar to the one in this photo.



The neighbors are concerned with this location because they believe they will be able to see it and hear it. They are also concerned about people parking on the deadend street off of Kennesaw and walking to the cages and field.

We looked at a location further away by the main drive in the woods below the field (marked in orange on the photo). This area is lower than the street and has a creek running down the middle. I consulted with a couple of architects and contractors. Fixing an area just big enough to accommodate the batting cages was going to cost over \$127,000. MBA was concerned about safety in this location because this area was pretty far removed from the field and sightline of the activity going on at the field.

The neighbors also suggested separating the cages and placing them on the field between some of the backstops and fencing (The dotted yellow lines on the first photo). They could physically fit there, but it will be very tight between the backstops, fencing, and playing/spectator areas. I am uncomfortable with the clearance between the playing area of the two fields and the batting cage in the upper right hand corner of the photo. The school, MBA, and I do not want them on the field. Besides a safety issue, they will be additional obstacles for PE, maintenance, and irrigation. The PE classes run laps around the field and we are already fighting worn spots in the tight areas behind the backstops. That can be seen along the fencing in the bottom of the photo.

I am proposing to place the two cages in the wooded area where we originally had planned. Instead of coming off of the dead end road with our equipment, we will work from the school side. That will leave as many trees and underbrush in place as possible and not accentuate the path. We will also plant a few evergreen trees in the wooded area between the cages and the neighbors that will grow to block the view of the cages and field during the winter.

We will not move any of the existing LED light fixtures from the field to provide light to these cages as we had originally proposed. If lights are needed, we will add lights that do not shine towards the neighbors. These lights will only work when the field lights are on. The field lights are controlled by the Parks department and are only scheduled to come on for approved events. The general public can not walk up and turn them on. This season we have the lights scheduled to go off at 9pm.

If this is approved, we will go ahead and clear the trees and grade the area for the cages. This will give the area time to settle before Net Connections is ready to install them. They are estimating being able to install them in 8 weeks so we will be close on getting them done before school starts back.

Sincerely,

Shanda Williams  
Superintendent of Parks and Recreation



May 8, 2023

Customer: City of Mtn Brook - Attn: Shanda Williams

Location: Cherokee Bend Elementary Mtn Brook, AL

**PROJECT SCOPE- 2 Bay Batting Cage and Frames**

Provide all labor, material and equipment necessary to install a new batting cage system. The proposed batting cage design is based on the design intent on plan using Net Connections, LLC typical design and installation methodology. The batting cage system is based on installation of 2 cages. The cage system includes end frames constructed of 4"x6" steel tubing that are directly embedded into the ground and encase in concrete. The frame will be 12' tall x 14' wide and will extend the length of the concrete pad. The net will be a 12' tall x 14' wide x 88' long #42 HDPE netting material. Three (3) horizontal support cables will be attached between each frame to support/attach the batting cage nets.

**Furnish and Install the following:**

- 4"x6" x 25" steel tubing, primed with weather resistant coating and two (2) coats of polyurethane (black), as manufactured by Carbolite
- 3,000 psi concrete for backfill
- 5/16" EHS galvanized strand cable
- #42 HDPE Nets (2 total - 12' x 14' x 88')
- All supporting bolts, washers, clamps, and other hardware which all conform to the specifications of one or more of the following: **ANSI, ASTM, IEEE, NEMA**
- All labor, equipment, and shipping charges included.

Total Bid **Cost, Cages + Net** ..... **\$18,773.00**



**Furnish and Install the following:**

**Option # 1**

- Form & pour concrete slab 30' x 60' x 4"
- 3,000 psi concrete
- 6 x 6 wire mesh / Fiber
- All supporting bolts, washers, clamps, and other hardware which all conform to the specifications of one or more of the following: **ANSI, ASTM, IEEE, NEMA**
- All labor, equipment, and shipping charges included.

Option # 1 Cost ..... **\$ 16,135.00**

**Furnish and Install the following:**

**Option # 2**

- Form & Fill slab 30' x 60' x 4" with treated timbers and crushed
- 1/4" crushed limestone
- All supporting bolts, washers, clamps, and other hardware which all conform to the specifications of one or more of the following: **ANSI, ASTM, IEEE, NEMA**
- All labor, equipment, and shipping charges included.

Option # 2 Cost ..... **\$ 9,887.00**

**Furnish and Install the following:**

- 1800 SF of TXT 34-T3 synthetic turf for batting cages.
- Install using Turf Claw outdoor commercial glue (Concrete) Or Nailer board for crushed stone.
- All supporting bolts, washers, clamps, and other hardware which all conform to the specifications of one or more of the following: **ANSI, ASTM, IEEE, NEMA**
- All labor, equipment, and shipping charges included.

Total Bid ..... **\$13,500.00**

Prices quoted in effect for 30 days

Total: **\$42,160**

APPENDIX C

Net Connection, LLC (hereinafter the "Contractor") enters this Contractor Agreement ("Agreement") with the City of Mountain Brook, Alabama, a municipal corporation ("City"), effective as of the date last executed by a party below (the "Effective Date"). Contractor and City may be individually referenced herein as "Party" or collectively as "Parties."

1. **Project.** Unless otherwise stated on the attached Exhibit A - Specifications (which is incorporated by reference), Contractor, at its expense, will furnish all the labor, materials, supplies, supervision, and equipment needed to perform the work, services and operations (collectively, the "Work") at the site designated below (the "Site") on the understated project (the "Project"):

Name of Project: Batting Cage Installation at CBE

Site of Project: Cherokee Bend Elementary  
4400 Fair Oaks Drive  
Mountain Brook, AL 35223

2. **Scope of Work.** The Scope of Work is set forth on Exhibit A (which includes the May 8, 2023 Contractor Proposal and the Project Plans) that is attached and incorporated herein.

3. **Undertaking of Parties.** Contractor agrees to perform the Work in accordance with the terms, conditions and specification in this Agreement and on Exhibit A. City agrees to compensate Contractor as set forth herein and perform its other responsibilities set forth in the Contract Documents.

4. **Term/Termination.** The term of this Agreement shall commence on the Effective Date and thereafter continue in effect up to four (4) months (the "Term"). The period in which Contractor will complete the Project is set forth on Exhibit A.

Notwithstanding the provision immediately above or any other language herein, City may terminate this Agreement before the expiration of its Term at the time designated in a written notice to Contractor if each of the following have occurred: (a) Contractor has defaulted on a material obligation to the City hereunder (a "Default"); and (b) following the City's provision of written notice of Default to Contractor, the Contractor fails to correct or remedy that Default within fifteen (15) days after receipt of that notice. The failure of the Contractor to timely perform the Work shall be considered an event of Default. This remedy is in addition to any other provided in the Agreement or available to City under law or in equity.

5. **Contract Price/Invoice/Certification.** Unless otherwise stated in the Special Conditions on Exhibit A or agreed in a writing signed by the Parties, City will pay Contractor the lump sum amount of **Forty-two Thousand, One Hundred Sixty Dollars and Zero Cents (\$42,160.00)** as compensation for performing the Work (the "Contract Price"). Unless agreed in a writing or amendment to this Agreement that is signed by

(g) that all actions required to be taken by or on behalf of the Contractor to enter or execute this Agreement, and to perform its obligations and agreements hereunder, have been duly taken, and the person signing below on behalf of Contractor is authorized to execute this Agreement.

7. **Insurance/Safety/Indemnification.**

(a) **Insurance.** For the duration of this Agreement and for limits not less than stated below, Contractor, at its sole expense, shall maintain the following insurance with a company(ies) lawfully authorized to do business in Alabama and reasonably acceptable to City:

(i) **Comprehensive General Liability:** Seven Hundred Fifty Thousand Dollars (\$750,000.00), combined single limit and aggregate for bodily injury and property damage. This Comprehensive General Liability policy shall include coverage for premises/operations, products/completed operations, assumed contractual obligations, independent contractors, and broad form property damage;

(ii) **Automobile Liability:** Automobile Liability covering owned and rented vehicles operated with policy limits of not less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) combined single limit and aggregate for bodily injury and property damage;

(iii) **Workers Compensation/Employer's Liability:** Workers' Compensation as required by statute and Employer's Liability with limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence.

The Contractor may satisfy its insurance obligations hereunder through a combination of primary, umbrella and excess policies. Before the execution of this Agreement, the Contractor shall provide City a certificate(s) of insurance evidencing compliance with the requirements in this section. The certificate shall name City as an additional insured on the Comprehensive General Liability, Automobile Liability, and any applicable umbrella and excess policies.

(b) **Safety.** Contractor agrees that it (a) has the sole responsibility to identify any condition or hazard at the Site or other locations on City property that will prevent it from safely performing the Work, and (b) is exclusively responsible for performing the Work in a safe manner that does not put at risk the safety of persons or endanger property. Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to: (i) its employees and all other persons who may be affected by the Work; (ii) all the Work and all materials and equipment to be incorporated therein, whether in storage on or off the Site, or under the care, custody or control of the Contractor or any of its representatives; and (iii) other property at the Work Site or adjacent thereto.

(c) **Indemnification.** Contractor agrees to defend, indemnify, and hold harmless City and its agents, employees and officials (hereinafter collectively, the "Indemnitees") from and against all claims, damages, costs, expenses, including reasonable attorneys' fees and costs, and claims for damages by any third parties (including any employee, subcontractor or representative of the Contractor, hereafter a "Contractor Representative") that arise out of, relate to or are caused by any negligent act, omission or conduct by Contractor or any Contractor Representative in performing or failing to perform the Work or its (or their) responsibilities under this Agreement; provided that nothing herein shall obligate the Contractor to indemnify any of the Indemnitees for any claims resulting from the negligent conduct or the willful misconduct of the Indemnitees.

(d) **Limitation of Liability.** In no event may Contractor recover from the City any special, incidental, consequential or any other indirect damages whatsoever of any description (including, without limitation, damages for lost profits, lost advantage, lost opportunity, loss of savings or revenues or for increased cost of operations) or amount arising from the City's breach of its obligations hereunder.

8. **Project Representative.** Each Party shall appoint and indicate on Exhibit A its representative who shall coordinate with the other Party on all matters related to the performance of the Work and the administration of this Agreement (the "Project Representative"). Any notice required hereunder shall be sufficiently given when sent to the appropriate Project Representative via United States certified mail, return receipt requested, or via overnight courier with receipt verification to the address set forth herein, or by personally delivering such notice to the party to be in receipt thereof.

9. **Miscellaneous Provisions.**

a. This Agreement which is comprised of this instrument, Exhibit A, and the May 8, 2023 Contractor Proposal (collectively, the "Contract Documents") sets forth the entire understanding between the Parties concerning the matters herein, and all oral representations, prior negotiations, understandings, agreements, conditions, and terms discussed between them prior to acceptance and signing of this Agreement are deemed to have merged herein.

b. This Agreement may be executed in counterparts each of which when executed by the parties shall be deemed to be a complete original. An electronic or facsimile copy of the executed contract or counterpart shall be deemed, and shall have the same legal force and effect as, an original document.

c. Any forbearance or delay on the part of City in enforcing any of its rights under this Agreement shall not be construed as a waiver of such rights. No terms of this Agreement shall be waived unless expressly waived in writing.

d. Contractor may not assign its rights, obligations or the benefits of this Agreement to any third party without the written consent of City, which consent may be withheld for any reason.

e. This Agreement is made only for the benefit of the Parties. It is not intended, nor shall it be construed, to grant or bestow any benefit, right or privilege to any third party.

The City will pay the Contract Price on this Project as follows:

Within ten (10) days following the successful completion of the Project, Contractor will submit to City Project Representative an invoice for the Contract Price (as adjusted by any mutually agreed change orders signed by both parties). With such invoice Contractor shall submit records reasonably supporting its payment. Within five (5) days following receipt of that invoice, City Project Representative will review same, consult with Contractor and make any mutually agreed modifications to it, certify that the invoice is due to be paid, and forward that certified invoice to the City Clerk. The City Clerk will remit to the Contractor the amount certified for payment within twenty (20) days after it receives that certification.

6. **Warranties of Contractor.** The Contractor warrants each of the following with respect to its Work:

(a) that it expeditiously will perform its Work in a good and workmanlike manner that is consistent with level of skill and care that would be provided by other contractors performing operations under the same or similar conditions, and in accordance with the Project schedule;

(b) that it, and all of its employees or any subcontractors (if authorized), will complete the Work in compliance with all codes, laws and regulations that are applicable to the Project;

(c) that before commencing the Work, at its own expense, the Contractor will obtain all licenses, permits or other governmental authorizations needed to complete the Project, including without limitation, a business license and building permit issued by the City (collectively, "Licensing"). Contractor further agrees to maintain that Licensing throughout the performance of the Project;

(d) that it has inspected the Site and any other locations at which it will perform the Work, and, based on that inspection and its expertise, that it has determined that each of those locations is reasonably suitable for Contractor to complete the Work;

(e) that the Contractor shall be responsible to remove and properly dispose of any debris related to its completion of the Project, and that it will leave each location where the Work is performed in reasonably clean condition;

(f) that the Work will be free of any material defects in workmanship and materials for a period of one (1) year that shall commence on the date of completion of the Project; and

APPENDIX 6



f. Contractor is an independent contractor of City. This Agreement does not create any partnership, joint venture or principal-agent relationship between the Parties. Further, City retains no control or authority with respect to its means and methods in which Contractor (or any of its employees or representatives) performs the Work.

Whereas, the undersigned, duly authorized representatives of the Parties execute this Agreement on behalf of their respective organization on the date(s) shown below.

g. Immigration Law Compliance. Contractor represents and warrants to the City that: (i) it does not knowingly employ, hire for employment, or continue to employ, in Alabama, an "unauthorized alien," as defined by the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, §31-13-1, et seq., Code of Alabama 1975, as amended (the "Act"); (ii) it will enroll in the E-Verify program prior to performing any work on the Project in Alabama and shall provide documentation establishing that it is enrolled in the E-Verify program. During the performance of this Agreement, the Contractor shall participate in the E-Verify program as required under the terms of the Act and shall verify every employee in Alabama that is required to be verified according to the applicable federal rules and regulations; (iii) it will comply with all applicable provisions of the Act with respect to subcontractors, if any, that it engages on the Project by entering into an agreement with or by obtaining an affidavit from such subcontractors providing work on the Project in Alabama that such subcontractors are in compliance with the Act with respect to their participation in the E-verify program. Contractor further represents and warrants that it shall not hire, retain or contract with any subcontractor to work on the Project in Alabama which it knows is not in compliance with the Act; and (iv) by signing this Agreement, it affirms, for the duration of the Agreement, that it will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, if Contractor is found to be in violation of this provision, it shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

CITY OF MOUNTAIN BROOK, ALABAMA

By: [Signature]  
Its: Mayor  
Date: 5-22-23

NET CONNECTION, LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

h. Amendment. Neither this Agreement nor any of the provisions herein (including, without limitation, those concerning the Project Schedule and Contract Price) may be amended or modified except in accordance with the terms of a written instrument (or change order) signed by both Parties.

i. Delayed Performance/Force Majeure Events. Neither Party shall be liable to the other for any failure to perform its respective obligations (including payment obligations) under this Agreement during any period in which its performance is delayed by circumstances beyond its reasonable control, such as fire, flood, war, embargo, strike, riot, or the intervention of any governmental authority (a "Force Majeure Event"). However, the delayed Party must promptly provide the other with written notice of the Force Majeure Event, the delayed Party's time for performance will be excused only for the duration of that Event, and, if that Event lasts longer than 30 days, then the other Party may immediately terminate, in whole or in part, this Agreement by giving written notice to the delayed Party.

Project: Batting Cage Installation at CBE

j. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Alabama.

(Signature Page Follows)

EXHIBIT A - SPECIFICATIONS

1. Scope of Work.

See attached May 8, 2023 Contractor Proposal

If Contractor desires or is required to perform services on the Project that fall outside the Scope ("Additional Operations"), the Contractor shall advise the City Project Representative of the need for Additional Operations before undertaking those services, the parties shall reach agreement on the expense of any Additional Operations and the City Project Representative shall approve any such Additional Operations before the Contractor performs same.

2. Project Schedule. The Contractor will complete this project by August 30, 2023 unless an extension is requested in writing by the Contractor and approved in writing by the City.

3. Project Representatives.

City Project Representative: Shanda Williams 3698 Bethune Drive Birmingham, AL 35223 Email: williamssh@mtmbrook.org Day Tel #: 205-802-3879	Contractor Project Representative: Ken Burnham 7355 Gadsden Hwy Trussville, AL 35173 Email: kburnham@netconnectionllc.com Day Tel #: 205-365-5828
--	--

4. Special Conditions:

Two batting cages will be constructed by the field at Cherokee Bend Elementary. Net Connections will

- frame and construct the 30 x 60 ft base using crushed stone 4" thick
- install the frames and nets for (2) 12 x14 x 55 ft lanes and allow for additional lanes in the future
- Install and secure synthetic turf on the floor

