



## **REQUEST FOR PROPOSAL RFP# 23-001**

### **JAMES BROWN ARENA: Construction Manager at Risk**

ISSUE DATE: February 22, 2024

#### **RFP DUE DATE/TIME**

March 22, 2024, at 2:00 PM Eastern Time

Submit electronically to the Building Connected platform.

Mail 3 hard copies to the following address: Enoch Tarver, P.C., 2743 Perimeter Pkwy., Bld. 100, Ste 115, Augusta, GA 30909.

Mail 2 hard copies to the following address: Nations Group - 7144 E Stetson Dr. Ste 410, Scottsdale, AZ 85251

Shortlist for interviews will be issued March 28<sup>th</sup>, 2024

Interviews will be held April 3<sup>rd</sup> – 5<sup>th</sup>, 2024

#### **MANDATORY PRE-PROPOSAL CONFERENCE**

February 27, 2024, at 9:30 AM Eastern Time

The TEAMS link for the conference will be issued through Building Connected.

#### **QUESTION DEADLINE**

March 7<sup>th</sup>, 2024, at 5:00 PM Eastern Time & 2<sup>nd</sup> Round March 14<sup>th</sup>, 2024, at 5:00 PM Eastern Time

Questions to be submitted through Building Connected

Questions will be answered (by Addendum, if necessary): Last addendum to be published no later than March 13<sup>th</sup>, 2024, 1<sup>st</sup> Round & 2<sup>nd</sup> Round March 18<sup>th</sup>, 2024

## **1.0 INTRODUCTION**

The Augusta-Richmond County Coliseum Authority (“ARCCA” and/or “Owner”) is conducting a competitive selection to retain a Construction Manager at Risk (CM@R) for the James Brown Arena project.

The term CM@R or Construction Manager (CM) is generally defined as the proposing firm with whom ARCCA may contract to provide construction services to build the project.

The CM@R will be required to enter into an Agreement with Owner. (The Construction Management Agreement, which will define the rights and obligations of the Owner and the CM@R.)

ARCCA is looking for a PARTNER; a company that is joining them, Perkins+Will, and Nations Group to successfully complete the new James Brown Arena Project.

ARCCA will be accepting proposals by the date and time defined on page 1. Solicitation documents are available on Building Connected.

A pre-proposal conference will be held as noted on page 1.

### **Background**

The James Brown Arena is an entertainment venue located in Augusta, Georgia, USA. It is named after the legendary musician James Brown. The existing arena was constructed in the late 1970s and was initially designed to host a range of events, from concerts to sporting events and community gatherings. The James Brown Arena is part of a larger complex that includes the Bell Auditorium, a performing arts theater located adjacent to the arena. The combined facilities provide a comprehensive space for a diverse range of events, making the complex a cultural and entertainment hub in Augusta.

### **Location**

Augusta Entertainment Complex is in downtown Augusta just south of the Bell Auditorium in Augusta Georgia.

### **Summary of Work**

Perkins+Will Architects are currently preparing the construction documents for this project. The project is at 40% Construction Documents. Included in this package is a summary of the project documents as Exhibit 1. This project is focused on the demolition of the existing James Brown Arena to provide new construction of a 375,000 square foot New James Brown Arena, including a public plaza, greenspace, surface parking, and right-of-way improvements.

Key components of the Project include the following:

- Demolition of the existing arena and site preparation, foundation, and infrastructure for a new arena.
- Construction of a 375,000 square foot multi-purpose arena to host a variety of events, including concerts, sporting events, and other entertainment productions.
- Construction of a connector to the Bell Auditorium that will serve as back of house space for both venues and a conditioned pedestrian corridor.
- Sitework to include a public plaza, greenspace, and surface parking lots.

## Scope of Services

Work will commence upon selection of the Construction Manager and negotiation of the GMP. On-site work is planned to start in June 2024 and achieve final completion by fall 2026.

The Construction Manager's team must be skilled in developing schedules, estimates, managing budgets, performing value engineering, understanding construction methods and techniques, performing constructability reviews, sequencing of work, executing that work while coordinating and working around existing operations, and coordinating and communicating the activities of the team through the design and construction phases to all members of the project team, including the owner and the construction team.

### **A. Responsibilities of CM will include, but are not limited to, the following during design and/or construction:**

1. Participation in Meetings – including weekly project meetings and other interim meetings as needed
2. Development of Project Milestone and Construction Schedule
3. Development of Construction Phasing and Sequencing
4. Development of Site Logistics - including deliveries and construction activities
5. Development of Site Mobilization Plan
6. Development of Site Security Plan
7. Constructability Reviews at each Milestone Submission
8. Construction Estimates at Design Milestones
9. Construction Estimates
10. Budgeting / Cost Control and Cash Flow Analysis
11. Identify Cost Savings Opportunities and Alternatives
12. Identify Potential Early Packages
13. Bid Package Assistance - Assist Architects in developing and assembling bid packages for potential early trades such as foundations, steel, elevator, and façade
14. Identify Long Lead Material / Equipment Procurement
15. Determine Availability of Sub-Contractor Trades and Materials
16. Define General Conditions and Special Conditions for Trade Subcontracts
17. Subcontract Preparation, Negotiation and Awards
18. Trade Contract Management and Administration
19. Construction of all Work including Management of all Trades
20. Coordination of all Owner Awarded Contractors, Vendors and Service Providers.
21. Development and Administration of Safety Protocols, OSHA Compliance
22. Development of Dust Control Protocols
23. Development of Protocols Triggering After-Hours Work
24. Development of Local/M/W/LBE Purchasing Strategies
25. Analyze Overall Construction Logistics - take into consideration all areas, above, below, and adjacent to building and develop mitigation plans
26. Maintain Written records of Communications and Recommendations
27. Coordinating Compliance with Insurance and Bonding Requirements
28. Obtaining final approvals/ sign offs/ approvals from governmental authorities
29. Monitor/ Expedite Permit Applications, as required
30. Establish/Monitor/Confirm Quality Control Requirements During Construction

31. Assist with Coordination of Geotechnical Investigations (if required) and Evaluate impact on Construction
32. Manage Testing Scopes as Developed by the Design Team
33. Assist in the Evaluation of Systems - such as HVAC, Electric, Plumbing, Fire Alarm, Fire Suppression, BMS Controls, Security and Data/Telecom
34. Support of the development of the Environmental Assessment Statement, if Required
35. Participate in the projection and presentation of project materials for Community, Board meetings, any other agencies required.
36. Labor Relations – managing specialty trades
37. Providing Final As-Builts
38. The Design Team will be producing the design drawings using Revit. Accordingly, the CM and Construction Trades will also be required to work and produce project drawings compatible with this platform. It will be the CM's responsibility to coordinate and manage this process with the trades.

The Construction Manager will solicit bids or quotes from subcontractors according to the terms of the Construction Management Agreement in a manner consistent with an open and competitive nature, taking into account industry practice, and make award decisions based on cost or, if not cost, on another identified alternative competitive basis as approved by ARCCA. When there are single fabricators of materials or special packaging requirements for subcontractor work other than low price, advance approval of the alternative selection criteria by ARCCA will be required. The Construction Manager will use its best efforts to obtain at least three bids or quotes for the particular work to be subcontracted. ARCCA may make exceptions to this practice.

## 2.0 SCHEDULE

- |   |                                |
|---|--------------------------------|
| • Issue Date                                  | February 22, 2024              |
| • Mandatory Pre-Proposal Conference (on-line) | February 27, 2024              |
| • Question Deadline                           | March 7, 2024 & March 14, 2024 |
| • Final Addendum Issuance (if necessary)      | March 18, 2024                 |
| • Proposal Due Date/Time                      | March 22, 2024                 |
| • Short list notified                         | March 28, 2024                 |
| • Presentations/Interviews                    | April 3 - 5, 2024              |

ARCCA will make every effort to adhere to the referenced schedule. It is, however, subject to change.

## 3.0 QUESTIONS

Questions. All questions and contact with ARCCA regarding any information in this RFP must be addressed in email to the Nations Group (identified on page 1) no later than the stated deadline. If a Proposer is unclear about any information contained in this document or its exhibits (Project, scope, etc.), they are urged to submit those questions for formal clarification.

## 4.0 FORM OF AGREEMENT (AIA A133-2019 w/ AIA A201)

A Sample Agreement is attached hereto as Exhibit 3. The proposers must provide comments to the sample agreement with their response to this RFP, if they are to be considered in the final agreement.



## **5.0 PROPOSAL SUBMISSION**

Proposals must be contained in a document not to exceed Twenty-Five (25) pages including pictures, charts, graphs, tables and text you deem appropriate to be part of ARCCA's review of your Proposal. Resumes of key individuals proposed to be involved in this Project are exempted from the page limit and must be appended to the end of your Proposal. No supplemental information to the page limit will be allowed. Appended resumes of the proposed key individuals, along with a Transmittal letter, table of contents, front and back covers, references, contract comments and blank section dividers will not be counted in the Twenty-Five (25) page limit.

Your Proposal should follow the format outlined below and include a Transmittal/Cover Letter signed by an officer of your firm(s) with the authority to commit the firm(s) and must also acknowledge receipt of all addenda. ***Include an email address*** for communication purposes.

The electronic proposal should be sized appropriately for transfer (under 10 MB) and formatted with page size of 8 ½ x 11 inches. The basic text information of the Proposal should be presented in standard business font size, and reasonable margins.

As part of the proposal process, all interested parties are required to provide a Bid Bond to guarantee their commitment to the project. The bid bond shall be in the amount of not less than 5 percent of the total amount payable by the terms of the contract.

As part of the proposal process, all interested parties must submit a contractor affidavit in the form attached as Exhibit 2. Proposals submitted without this affidavit will not be considered.

### **Acceptance or Rejection of Solicitation Responses by ARCCA**

Owner reserves the right to reject any or all proposals received pursuant to this RFP in its sole and absolute discretion. Owner shall not be under any obligation to any of the respondents as a result of this bid process (and this RFP does not constitute a binding offer). Upon review of the bids, Owner in its sole and absolute discretion may elect to enter into negotiations with one or more of the respondents or reject all proposals and solicit new proposals.

- A. This RFP is subject to amendment or modification by addenda and may be withdrawn or canceled, in whole or in part, by the Owner at any time; provided, however, any addenda will comply with the time restrictions set out in O.C.G.A. §36-91-20. Incomplete or incorrectly submitted proposals may be rejected at the discretion of the Owner. The Owner reserves the right to reject any and all proposals received as a result of this RFP; to waive or not waive informalities or irregularities in responses or response procedures and allow corrections of deficient proposals that do not completely conform to the instructions contained herein; require supplemental statements or information from any firm; extend the deadline for submission of proposals hereto; and to accept or further negotiate cost, terms, or conditions of any bid determined by the Owner to be in its best interests, even though the proposal may not be the lowest bid. The Owner may exercise the foregoing rights at any time without notice and without liability to any responding firm or any other party for its expenses incurred in the preparation of the responses hereto or otherwise.

- B. Each proposal must be signed by an official authorized to bind the Proposer to its provisions for at least a period of 60 days. Failure of the successful Proposer to accept the obligations set forth in its proposal may result in the cancellation of any award.
- C. Proposers will receive no reimbursement for expenses incurred in preparing their proposals in response to this RFP. This RFP shall not be deemed an offer by the Owner and a response to this RFP shall not constitute a “Contract” between the parties, nor indicate a commitment of any kind on the part of the Owner. The Owner reserves the right to reject for any reason any and all responses received, and to negotiate separately with any source in any manner they desire. The Owner is not under any obligation to award a contract for this RFP.
- D. All proposals must contain a statement that the proposer agrees to leave the proposal open for a minimum of 60 days from the Proposal Due Date.

### **Evaluation Process**

The written response to this RFP is the first in a two-step process in the selection of a Construction Manager for the Project. The Proposals received in response to this RFP will be evaluated by the selection committee with the top scoring firms being invited to advance to further evaluation steps including participation in Presentations/Interviews should the committee determine they are necessary.

Presentations/Interviews will include a Forty-Five (45) minute presentation period, immediately followed by a Forty-Five (45) minute Q&A session.

After all of the Presentations/Interviews are completed, the members of the selection committee will discuss the strengths and weaknesses of the finalists. The members of the selection committee will then score the finalists based on all information received, presented and heard during the Presentations/Interviews. Optional Reference Checks may also be undertaken to aid in final scoring. Upon completion of final scoring, negotiations may commence with all Proposers submitting responsive proposals or all Proposers in the competitive threshold. Final scoring of the Interviews will be separate and not cumulative from the short-list development.

### **Evaluation Criteria**

The following items constitute the evaluation criteria for the selection committee to score Proposals. For ease in reviewing, provide tabs keyed to each of the following criteria:

#### **Contract (10 Points)**

Provide a statement accepting the Proposed Contract or provide any comments for review.

#### **Experience and Qualifications (20 Points)**

Identify your Preconstruction Services team that will be involved in completing this phase of the project. Include proposed key personnel's project experience, with specific examples and identify their roles in the projects. Indicate current availability, proposed percentage of project involvement per project phase and indicate whether the proposed team has worked together on previous projects.

Identify your Construction Phase Services team that will be substantially involved in the construction of this project, including the Senior Manager on site daily and the General Superintendent. Include the

proposed key personnel's project experience with specific examples. Indicate whether the proposed team has worked together on previous projects. Due to the accelerated timeline of the project, describe how preconstruction and construction teams work together.

Please address the following at a minimum:

### **Experience and Qualifications**

1. Please list all current projects in pre-construction or under construction. List should provide project name, location, type and size, percentage completion, contract type (straight construction management, guaranteed maximum price or stipulated sum) and a reference for the owner and architect. Please include name, title, telephone number and e-mail for all references.
2. List all projects completed in the last three years with a total cost of \$175,000,000 or more. Be sure to highlight projects of a similar nature to this project. List should provide similar information about the project and references as Item 1 above.
3. List all similar projects, especially projects with a total cost of \$175,000,000 or more, for which your firm has provided pre-construction or construction services, and the nature of those services.
4. What percentage of your firm's work is performed as a construction manager and as a general contractor?
5. Provide your firm's brochure, latest audited financial statements and annual report.
6. What are your firm's special characteristics and advantages to ARCCA on this project? Have you completed similar work? What factors do you believe are critical to the success of this project?

### **Project Approach (20 Points)**

Describe your team's approach to the work and meeting the Project's intent. Identify major challenges related to the intended scope for this Phase and how the team will address them. Identify methods from past projects (both those that were successful and those that were not) related to the scope of this Project and explain why.

- Describe your team's plan to provide a GMP on 50% Construction Documents and identify constructability and value engineering ideas timely for Owner review. Describe how your team will manage and communicate ongoing regular costs and budget status to the Owner.
- Describe the specific project controls your firm will employ to control costs during development of a GMP and throughout the construction period.
- Include the team's approach to early trade partners/procurement that has been proposed. Which trades should be included? Do your expected trade partners have experience in this region? Identify the scopes that must be included in the first construction proposal documents to facilitate the earliest construction start possible. Also consider the most efficient schedule of onsite activities, meaning no gaps in work on site.

- Describe major challenges associated with a previous arena project and how they were addressed by your team in the past. How can those challenges be avoided or mitigated for the James Brown Arena?
- Identify the risks/risk mitigation to the arena construction anticipated during construction of this project.
- With respect to the project schedule, provide comments or thoughts to complete the project scope most efficiently, considering the current conditions affecting the construction industry. (i.e. material lead times, quantity of skilled workers, ...)

**Construction Fee (5 Points)**

Provide your firm's proposed construction fee. Fee to be charged on Direct Cost of Work, General Conditions, and General Requirements only.

**General Conditions and General Requirements (10 Points)**

Provide your firm's proposed general conditions and general requirements cost as defined in Exhibit 3. Provide details and your proposed staff rates.

**Bonding/SDI (5 Points)**

Provide your payment and performance bond rate.

Does your team plan to propose a Subcontractor Default Insurance (SDI) program for this project? If so, please outline your coverage limits, SDI charge, and premium/charge basis- total hard costs, or only the hard costs for the subcontractors who are enrolled into the program? How are the premiums billed to ownership, as subs are enrolled or an upfront charge?

**Insurance (5 Points)**

Provide confirmation that your company can provide the insurance coverages noted in Construction Manager Agreement Article 18 located in Exhibit 2. Also, please provide the following:

- What is your Team's overall insurance charge to the project? What is the premium basis of the charge?
- How are the insurance charges billed to the owner, as a rate on hard costs as the project progresses, or all upfront at project inception subject to adjustment based on approved change orders?
- What specific insurance coverages are included in this charge? Please specify coverage limits as well as the specific charge by line of coverage.
- If the owner implements an Owner Controlled Insurance Program which includes the project General Liability and Excess Liability with a minimum of \$100,000,000 in coverage limits, what insurance charges would remain in the above identified insurance rate?
- If the owner implements a Contractor's Pollution Liability OCIP, what reduction if any will there be to the above rates?
- Please acknowledge that all project insurance charges are cost of the work with the exception of Builder's Risk if provided by CM (no CM fee on Builder's Risk).
- If the Owner places a CPPI policy with \$10,000,000 in limits, please identify any insurance cost reduction.

- What if any other insurance related charges will be allocated to this project, including but not limited to Excess of OCIP coverage, DIC charge for Builder’s risk or OCIP, risk management fees, claims administration charges, or RMIS system charges?

### **Construction Manager Contingency (5 Points)**

Acknowledge that Construction Manager contingency to be included in the GMP will be limited to 3% of the direct cost of work. It will be for the Construction Manager’s use, but will require Owner approval, which will not be unreasonably withheld.

Any contingency/buyout not utilized will be returned to the Owner 100%.

### **Workforce Local/Diversity Plan (15 Points)**

ARCCA is committed to ensuring local and diverse business participation in this project. We have established a minimum goal of 25% for this project.

Provide a narrative description of your current workforce diversity program/plan, and the plan for obtaining subcontracting, consulting, and supplier diversity for this Project. Include a description of the outreach program or plan, including a schedule of events and specific steps that will be taken to maximize broad based and inclusive participation and the plan to provide mentoring, technical or other business development services to subcontractors/subconsultants needing or requesting such services. Also provide how you have achieved these requirements in the past.

### **Safety Record and Safety Plan (5 Points)**

Provide the following safety record information. Provide your approach to safety and how you will ensure a safe project.

- Experience Modification Rate (EMR) for each of the last three years.
- Lost Time and Recordable Incident Rates for each of the last three years.
- OSHA fines for each of the last three years (including any fines initially imposed, but later rescinded). Include a brief summary and amount of each fine.
- Your corporate safety philosophy and approach including a description of how this philosophy is implemented from senior management to all building trades workers.

### **Point Summary Table**

Contract	10 Points
Experience & Qualifications	20 Points
Project Approach	20 Points
Construction Fee	5 Points
General Conditions & General Requirements	10 Points
Bonding/SDI	5 Points
Insurance	5 Points
Construction Manager Contingency	5 Points
Workforce Local/Diversity Plan	15 Points
Safety Record & Safety Plan	5 Points
<b>TOTAL</b>	<b>100 Points</b>

**Presentations/Interviews (90 Points)**

Interviews may be conducted to aid in determining the Apparent Successful Proposer. Presentations/Interviews opportunities will be provided to the short-listed firms following the initial review and scoring. Final scoring of the Presentations/Interviews will be separate and not cumulative from the short-listing. Scoring of the Presentations/Interviews will be based upon the following criterion and point values:

- Project Approach – 50 Points
- Experience and Qualifications of the Firm/Team – 20 Points
- Question and answer period – 20 points

**Optional Reference Checks (10 Points)**

In addition to responding to the evaluation criteria above, provide the names, addresses, phone numbers and e-mail addresses of three (3) references. Do not include any ARCCA personnel or others affiliated with the Austa-Richmond County Coliseum Authority or OVG360. ARCCA may check with these references and with others associated with past work of your firm.

**Negotiations**

ARCCA may commence General and/or Best and Final Offer (BAFO) negotiations at any point in the selection period. All responsible offerors found by the Authority to have submitted proposals reasonably susceptible of being selected for award shall be given an opportunity to participate in such discussions, negotiations, and revisions.

Any/all exceptions to the Term and Conditions included in the Sample Contract including, but not limited to, general conditions shall be clearly identified and appended to the Proposal in order to be considered by ARCCA during the negotiation period.

If ARCCA and the Apparent Successful Proposer are unable to reach agreement, ARCCA may cease negotiations with the Apparent Successful Proposal and enter negotiations with the other Proposers, etc.

**6.0 FINANCIAL RESPONSIBILITY**

ARCCA reserves the right to investigate, at any time prior to execution of the contract, the Proposers fiscal responsibility to perform the anticipated services. Submission of a Proposal will constitute approval for ARCCA to obtain any credit report information ARCCA deems necessary to conduct the evaluation. ARCCA will notify Proposers, in writing, of any other documentation required, which may include, but need not be limited to recent profit-and-loss history; current balance statements; assets-to-liabilities ratio, including number and amount of secured versus unsecured creditor claims; availability of short and long-term financing; bonding capacity and credit information. Failure to promptly provide this information may result in rejection of the Proposal.

ARCCA may postpone the selection of finalists or execution of a contract in order to complete its investigation and evaluation. Failure of a Construction Manager to demonstrate financial responsibility may render it non-responsible and constitute grounds for Proposal rejection.

## **7.0 PROJECT TERMINATION**

ARCCA is seeking to award a contract to a Construction Manager for the full extent of the project; however, ARCCA reserves the right to terminate the Project or contract with other parties during any phase in the Project.

## **8.0 INSURANCE PROVISIONS**

During the term of the resulting contract, the awardee will be required to maintain in full force, at its own expense, from insurance companies authorized to transact the business of insurance in the state of Georgia, each insurance coverage/policy as set forth in the contract.

## **9.0 NONDISCRIMINATION**

By submission of a Proposal, the Proposer certifies under penalty of perjury that the Proposer will not discriminate against minority, women, emerging small business or service-disabled veteran owned business enterprises in obtaining any required subcontracts.

## **10.0 EXHIBITS**

Exhibit 1- Consolidated Summary Documents

Exhibit 2-Contractor Affidavit

Exhibit 3 Construction Manager Agreement

Exhibit 4- GC/GR Differentiation Document

**END OF RFP**

# **EXHIBIT 1**

Consolidated Summary Documents

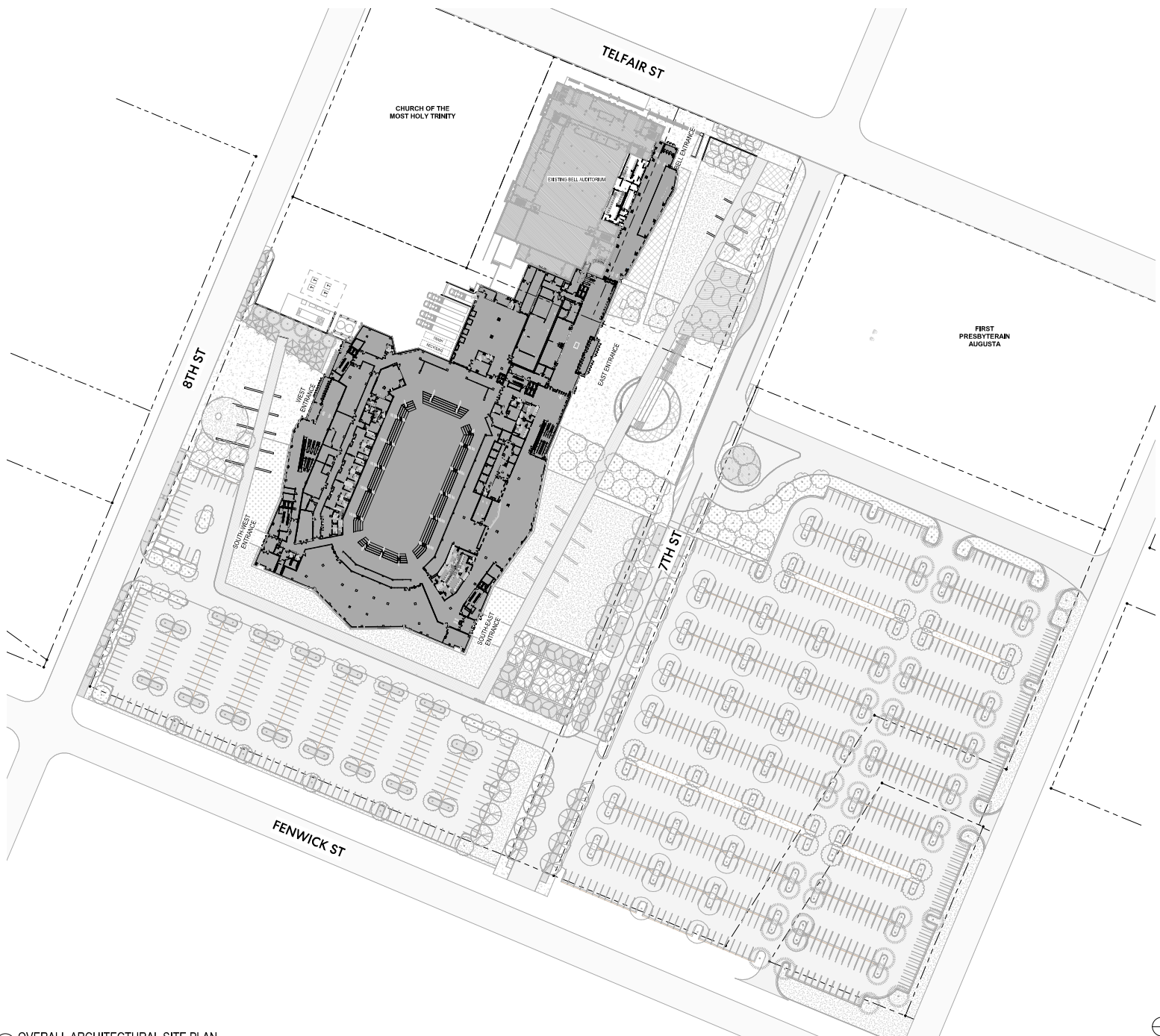


**ARCHITECTURAL SITE GENERAL NOTES**

1. ARCHITECTURAL SITE PLAN ISSUED FOR REFERENCE ONLY.
2. RE: ALL DRAWINGS FOR ALL SITE CONSTRUCTION INFORMATION INCLUDING BUT NOT LIMITED TO THE FOLLOWING:
  - SITE GEOMETRY AND DIMENSIONAL CONTROL
  - SITE UTILITIES
  - SITE DRAINAGE AND DRAINAGE
  - ASPHALT/CONCRETE PAVING DETAILS
  - PARKING SURFACES
  - CONCRETE SIDEWALK, CURB, AND GUTTER DETAILS
  - PARKING SURFACES
  - TRAFFIC SIGNAGE
  - PARKING LITING AND CURB MARKINGS
  - TYPICAL HANDICAP DRIVEWAYS
3. RE: ELECTRICAL DRAWINGS FOR SITE INFORMATION INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:
  - SITE, BUILDING, AND OUTSIDE LIGHTING AND DETAILS
  - ELECTRICAL SERVICE LOCATIONS AND DETAILS
  - BUILDING AND OUTSIDE LIGHTING AND DETAILS
  - ELECTRICAL SERVICE LOCATIONS AND DETAILS
  - ALL DIMENSIONS AND DETAILS FOR HANDICAP SITE LIGHTING ELEMENTS
  - EXTERIOR BUILDING ILLUMINATION AND UTILITY COORDINATION
4. REFERENCE LANDSCAPE DRAWINGS FOR:
  - LANDSCAPE PLANTING AND DETAILS
  - SOCCING AND SEEDING
  - LANDSCAPE BED DRAINAGE
  - HEDGING AND IRRIGATION DETAILS (SPECIALTY PAINTING)
5. PARKING COUNT DOES NOT ACCOUNT FOR ADA SPACES OR PARKING IMPROVEMENTS LAST OF 7TH STREET.

**ARCHITECTURAL SITE PLAN LEGEND**

	NEW CONCRETE SIDEWALK OR PAVING
	NEW PARKING
	NEW BUILDING FOOTPRINT
	NEW ASPHALT PAVING
	NEWLY SODDED OR LANDSCAPED AREA
	PROPERTY LINE
	EASEMENT, BUILDING SETBACK & UTILITY
	FIRE LANE
	REQUIRED ACCESSIBLE PATH
	NEW PARKING SPACE COUNT



40% CONSTRUCTION DOCUMENTS 11-19-2021



**AUGUSTUS JAMES BROWN ARENA**  
 601 7th St. Augusta, GA 30901

ISSUE CHART

OVERALL ARCHITECTURAL SITE PLAN

**A01-01**

**01 OVERALL ARCHITECTURAL SITE PLAN**  
 1" = 50'-0"

11/19/2021 11:56:27 AM IBM 3034 Augustus James Brown Arena A01-01.dwg 2/16/21 04

**FLOOR PLAN  
 GENERAL NOTES**

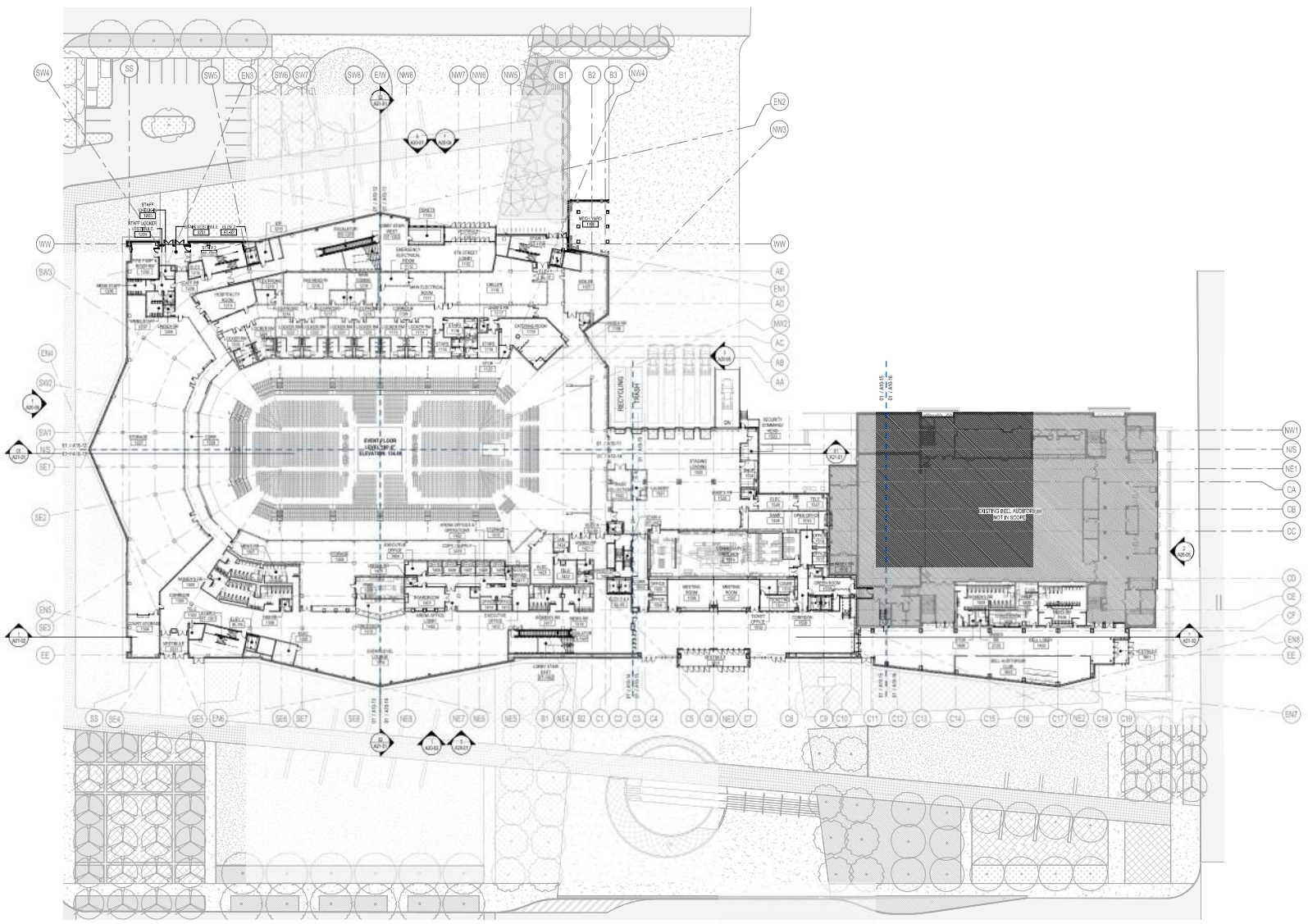
1. PARTITION TYPES ARE SCHEDULED IN THE A11 SERIES. ALL A11 SERIES CODE COMPLIANCE PLANS FOR GRAPHIC EXISTENCE OF FIRE-RATED PARTITIONS REFER TO PARTITION TYPE SCHEDULE FOR LOCATION OF SOUND ATTENUATION BLANKETS.
2. REFER TO SHEET 01-01 FOR ADDITIONAL GENERAL NOTES.
3. REFER TO FLOOR PLAN SERIES A10-01 FOR LOCATION OF PARTITION TYPES. ALL PARTITIONS ARE TYPE "W4" UNLESS NOTED OTHERWISE.

**FLOOR PLAN LEGEND**

- BUILDING EXPANSION JOINT
- EXISTING PARTITION TO REMAIN
- NEW PARTITION
- NEW COLUMN
- ▲ EXTERIOR ELEVATION TAG
- ▲ WALL SECTION TAG
- ▲ BUILDING SECTION TAG
- ◇ (ALUM) EXTERIOR GLAZING SYSTEM TAG REF. A10-01 SERIES FOR SCHEDULE
- ◇ (NUMERICAL) INTERIOR GLAZING REFER. A10-01 SERIES FOR SCHEDULE
- DOOR TAG REF. A10-01 SERIES FOR DOOR SCHEDULE
- ▲ EXTERIOR ASSEMBLY TAG REF. A10-01 SERIES FOR SCHEDULE
- ▲ PARTITION TAG REF. A10-01 SERIES FOR CHARTS
- FLOOR DRAIN
- OWNER FURNISHED EQUIPMENT ITEM

**FLOOR PLAN  
 NOTES BY NUMBER**

**FLOOR PLAN  
 ALTERNATES BY NUMBER**



01 OVERALL FLOOR PLAN - EVENT LEVEL 01  
 T = 3/4" = 1'-0"

10% CONSTRUCTION DOCUMENTS 11.19.2021



**AUGUSTA JAMES  
 BROWN ARENA**

601 7th St, Augusta, GA 30901  
 STAMP

KEYPLAN



ISSUE CHART

OVERALL FLOOR PLAN -  
 EVENT LEVEL 01

**A10-10**



**FLOOR PLAN  
GENERAL NOTES**

1. PARTITION TYPES ARE SCHEDULED IN THE A11 SERIES. ALL A11 SERIES CODE COMPLIANCE PLANS FOR GRAPHIC EXISTENCE OF FIRE-RATED PARTITIONS. REFER TO PARTITION TYPE SCHEDULE FOR LOCATION OF SOUND ATTENUATION BLANKETS.
2. REFER TO SHEET 01-01 FOR ADDITIONAL GENERAL NOTES.
3. REFER TO FLOOR PLAN SERIES A100 FOR LOCATION OF PARTITION TYPES. ALL PARTITIONS ARE TYPE "W4" UNLESS NOTED OTHERWISE.

**FLOOR PLAN LEGEND**

- BUILDING EXPANSION ZONE
- EXISTING PARTITION TO REMAIN
- NEW PARTITION
- NEW COLUMN
- ▲ EXTERIOR ELEVATION TAG
- ▲ WALL SECTION TAG
- ▲ BUILDING SECTION TAG
- ◇ (ALPHA) EXTERIOR GLAZING SYSTEM TAG REF. A304X SERIES FOR SCHEDULE
- ◇ (NUMERICAL) INTERIOR GLAZING REFER. A304X SERIES FOR SCHEDULE
- ◇ (NUMERICAL) DOOR TAG REF. A304X SERIES FOR DOOR SCHEDULE
- ▲ EXTERIOR ASSEMBLY TAG REF. A304X SERIES FOR SCHEDULE
- ▲ PARTITION TAG REF. A304X SERIES FOR PARTITIONS
- FLOOR DRAIN
- OWNER FURNISHED EQUIPMENT ITEM

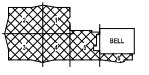
**FLOOR PLAN  
NOTES BY NUMBER**

**FLOOR PLAN  
ALTERNATES BY NUMBER**



**AUGUSTA JAMES  
BROWN ARENA**  
601 7th St, Augusta, GA 30901  
STAMP

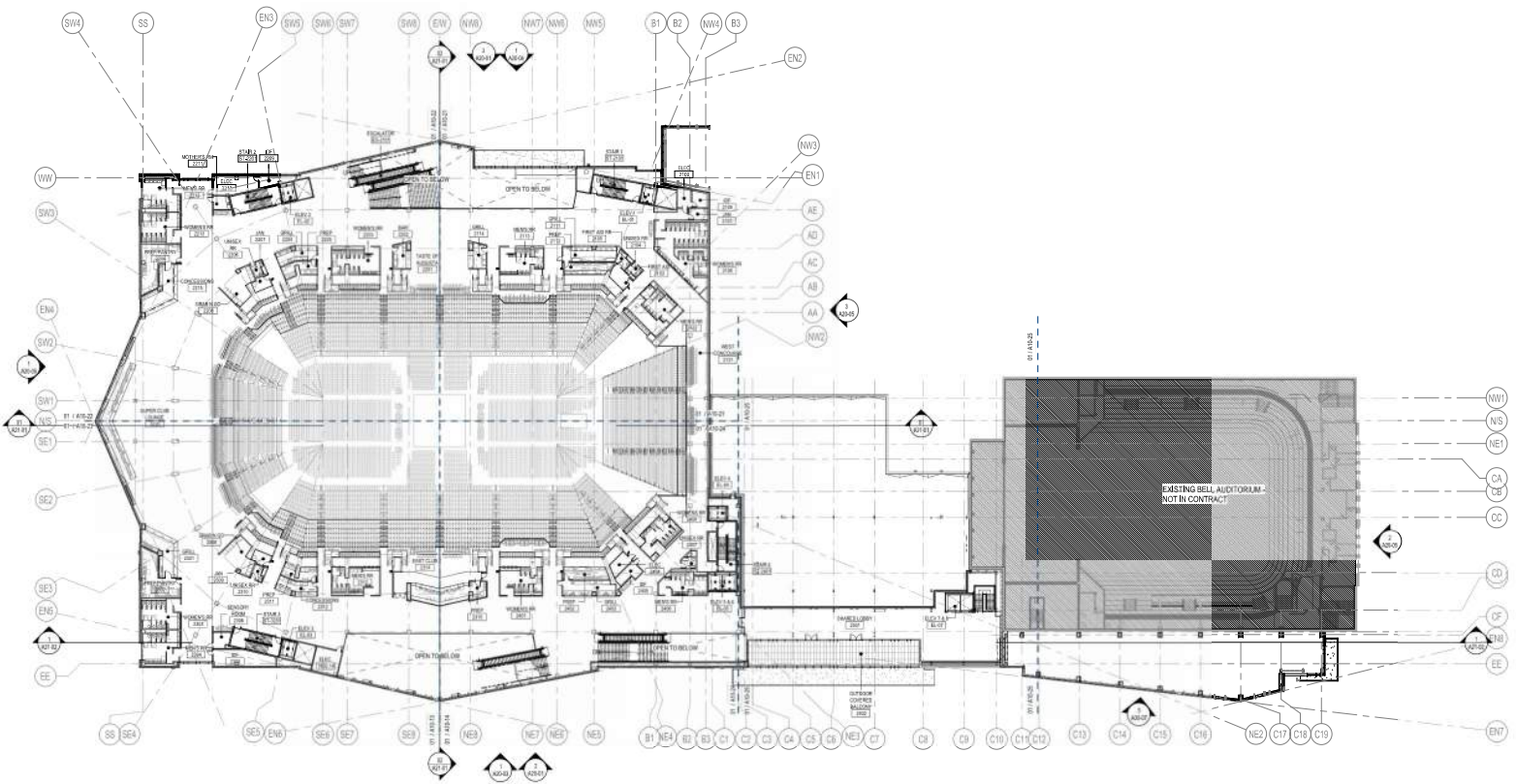
KEYPLAN



ISSUE CHART

OVERALL FLOOR PLAN -  
MAIN CONCOURSE  
LEVEL 02

**A10-20**



**01** OVERALL FLOOR PLAN - MAIN CONCOURSE 02  
1" = 3/32"

11/19/2021 1:04:56 PM E:\A10\Augusta James Brown Arena\A10\A10-20\_Overall.dwg

40% CONSTRUCTION DOCUMENTS 11-19-2021

**FLOOR PLAN  
GENERAL NOTES**

1. PARTITION TYPES ARE SCHEDULED IN THE A11 SERIES. RE: A11 SERIES CODE COMPLIANCE PLAN; FOR GRAPHIC LIST OF FIRE-RATED PARTITIONS, REFER TO PARTITION TYPE SCHEDULE FOR LOCATION OF SOUND ATTENUATION BLANKETS.
2. REFER TO SHEET 03-01 FOR ADDITIONAL GENERAL NOTES.
3. REFER TO FLOOR PLAN SERIES A100 FOR LOCATION OF PARTITION TYPES. ALL PARTITIONS ARE TYPE "W4" UNLESS NOTED OTHERWISE.

**FLOOR PLAN LEGEND**

- BUILDING EXPANSION ZONE
- EXISTING PARTITION TO REMAIN
- NEW PARTITION
- NEW COLUMN
- ▲ EXTERIOR ELEVATION TAG
- ▲ WALL SECTION TAG
- ▲ BUILDING SECTION TAG
- ◇ (ALPHA) EXTERIOR GLAZING SYSTEM TAG REF. A304X SERIES FOR SCHEDULE
- ◇ (NUMERICAL) INTERIOR GLAZING REFER. A304X SERIES FOR SCHEDULE
- ◇ (NUMERICAL) DOOR TAG REF. A304X SERIES FOR DOOR SCHEDULE
- ▲ EXTERIOR ASSEMBLY TAG REF. A304X SERIES FOR SCHEDULE
- ▲ PARTITION TAG REF. A304X SERIES FOR PARTITIONS
- ⊕ FLOOR DRAIN
- OWNER FURNISHED EQUIPMENT ITEM

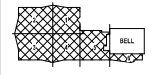
**FLOOR PLAN  
NOTES BY NUMBER**

**FLOOR PLAN  
ALTERNATES BY NUMBER**



**AUGUSTA JAMES  
BROWN ARENA**  
601 7th St, Augusta, GA 30901  
STAMP

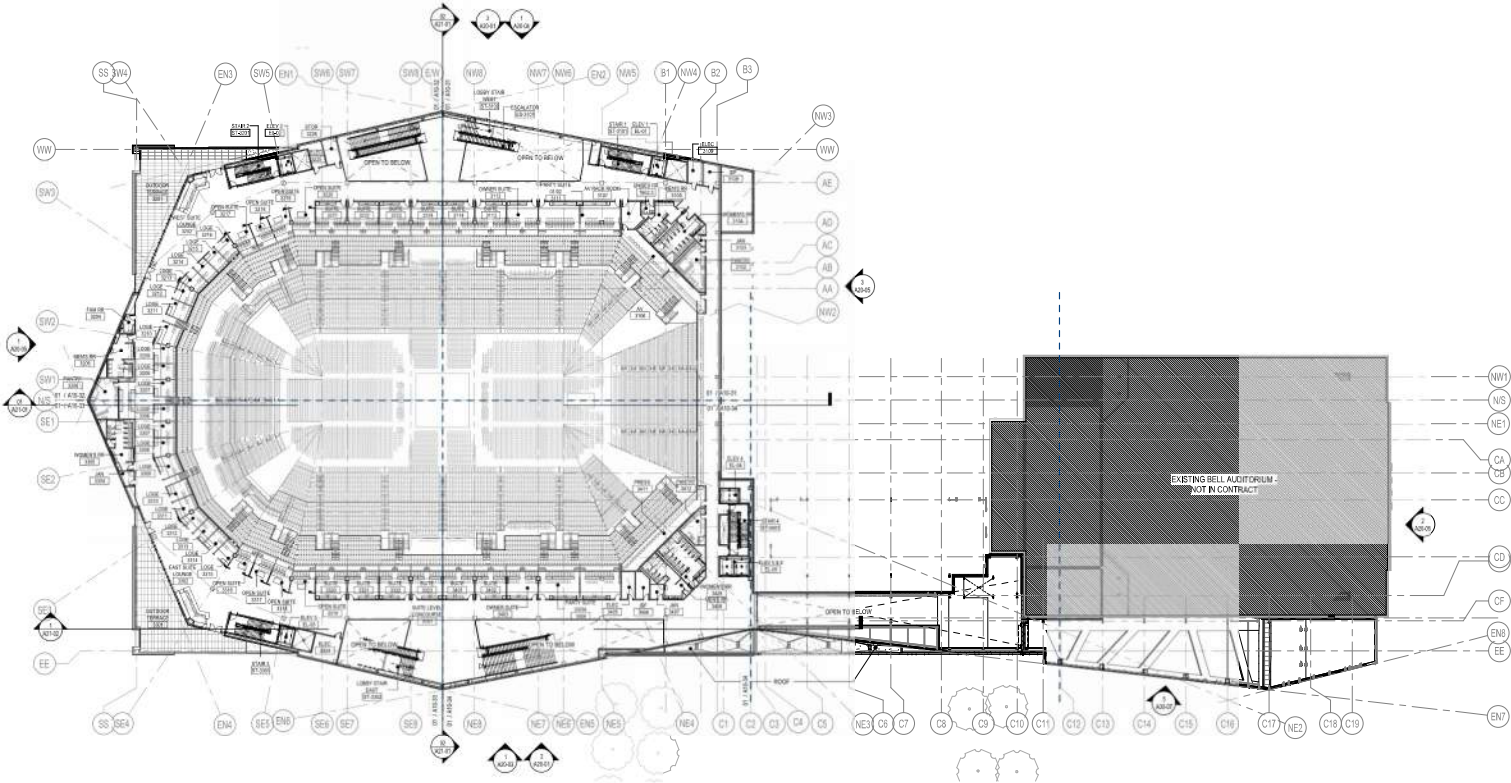
KEYPLAN



ISSUE CHART

OVERALL FLOOR PLAN -  
SUITE LEVEL 03

**A10-30**



**01 OVERALL FLOOR PLAN - SUITE LEVEL 03**  
1" = 3/8"

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**FLOOR PLAN  
GENERAL NOTES**

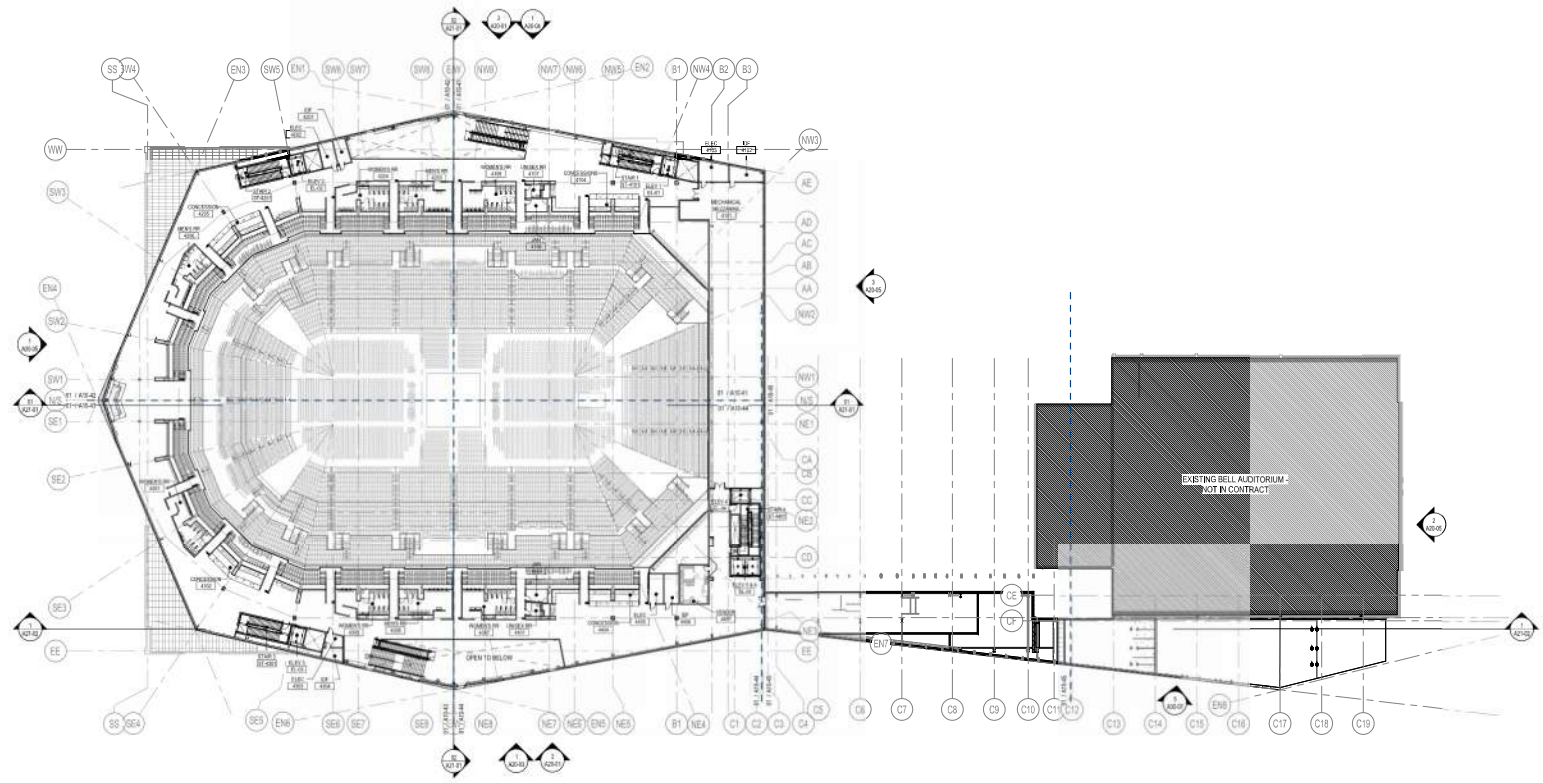
1. PARTITION TYPES ARE SCHEDULED IN THE A11 SERIES. SEE A11 SERIES CODE COMPLIANCE PLAN FOR GRAPHIC LIST OF FIRE RATED PARTITIONS. REFER TO PARTITION TYPE SCHEDULE FOR LOCATION OF SOUND ATTENUATION BLANKETS.
2. REFER TO SHEET A10-01 FOR ADDITIONAL GENERAL NOTES.
3. REFER TO FLOOR PLAN SERIES A10-02 FOR LOCATION OF PARTITION TYPES. ALL PARTITIONS ARE TYPE "W4" UNLESS NOTED OTHERWISE.

**FLOOR PLAN LEGEND**

- BUILDING EXPANSION ZONE
- EXISTING PARTITION TO REMAIN
- NEW PARTITION
- NEW COLUMN
- ▲ EXTERIOR ELEVATION TAG
- ▲ WALL SECTION TAG
- ▲ BUILDING SECTION TAG
- ◇ (ALPHA) EXTERIOR GLAZING SYSTEM TAG REF. A304X SERIES FOR SCHEDULE
- ◇ (NUMERICAL) INTERIOR GLAZING REFER. A304X SERIES FOR SCHEDULE
- ◇ (ID) DOOR TAG REF. A304X SERIES FOR DOOR SCHEDULE
- ▲ (KT) EXTERIOR ASSEMBLY TAG REF. A304X SERIES FOR SCHEDULE
- ▲ (AT) PARTITION TAG REF. A11-01 SERIES FOR PARTITIONS
- FLOOR DRAIN
- OWNER FURNISHED EQUIPMENT ITEM

**FLOOR PLAN  
NOTES BY NUMBER**

**FLOOR PLAN  
ALTERNATES BY NUMBER**



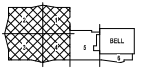
**01** OVERALL FLOOR PLAN - UPPER CONCOURSE 04  
1" = 3/16"

40% CONSTRUCTION DOCUMENTS 11.19.2014



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KEYPLAN



ISSUE CHART

OVERALL FLOOR PLAN -  
UPPER CONCOURSE  
LEVEL 04

**A10-40**



**FLOOR PLAN  
 GENERAL NOTES**

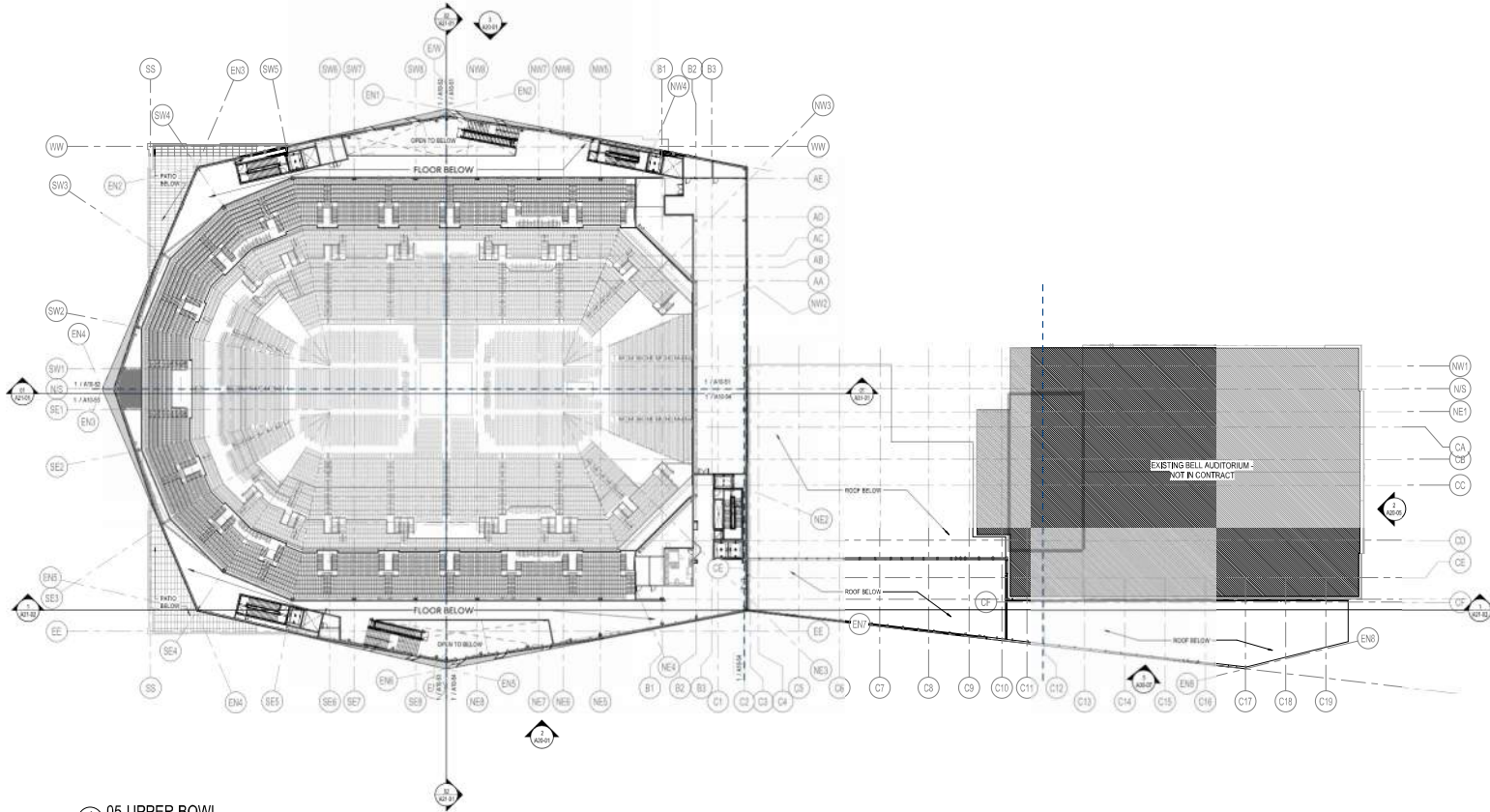
1. PARTITION TYPES ARE SCHEDULED IN THE A11 SERIES. SEE A11 SERIES CODE COMPLIANCE PLAN SET FOR GRAPHIC LIST OF FIRE-RATED PARTITIONS. REFER TO PARTITION TYPE SCHEDULE FOR LOCATION OF SOUND ATTENUATION BLANKETS.
2. REFER TO SCHEDULE 01-01 FOR ADDITIONAL SOUNDING NOTES.
3. REFER TO FLOOR PLAN SERIES 01-01 FOR LOCATION OF PARTITION TYPES. ALL PARTITIONS ARE TYPE "W4" UNLESS NOTED OTHERWISE.

**FLOOR PLAN LEGEND**

- BUILDING EXPANSION JOINT
- EXISTING PARTITION TO REMAIN
- NEW PARTITION
- NEW COLUMN
- EXTERIOR ELEVATION TAG
- WALL SECTION TAG
- BUILDING SECTION TAG
- EXTERIOR GLAZING SYSTEM TAG REF. A304-X SERIES FOR SCHEDULE
- INTERIOR GLAZING REFER. A304-X SERIES FOR SCHEDULE
- DOOR TAG REF. A304-X SERIES FOR SCHEDULE
- EXTERIOR ASSEMBLY TAG REF. A304-X SERIES FOR SCHEDULE
- PARTITION TAG REF. A304-X SERIES FOR SCHEDULE
- FLOOR DRAIN
- OWNER FURNISHED EQUIPMENT ITEM

**FLOOR PLAN  
 NOTES BY NUMBER**

**FLOOR PLAN  
 ALTERNATES BY NUMBER**



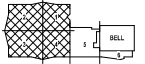
① 05-UPPER BOWL  
 1" = 30'-0"

40% CONSTRUCTION DOCUMENTS 11.19.2017



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 BROWN ARENA**  
 601 7th St. Augusta, GA 30901  
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KEYPLAN



ISSUE CHART

OVERALL FLOOR PLAN -  
 UPPER BOWL

**A10-50**

**FLOOR PLAN  
GENERAL NOTES**

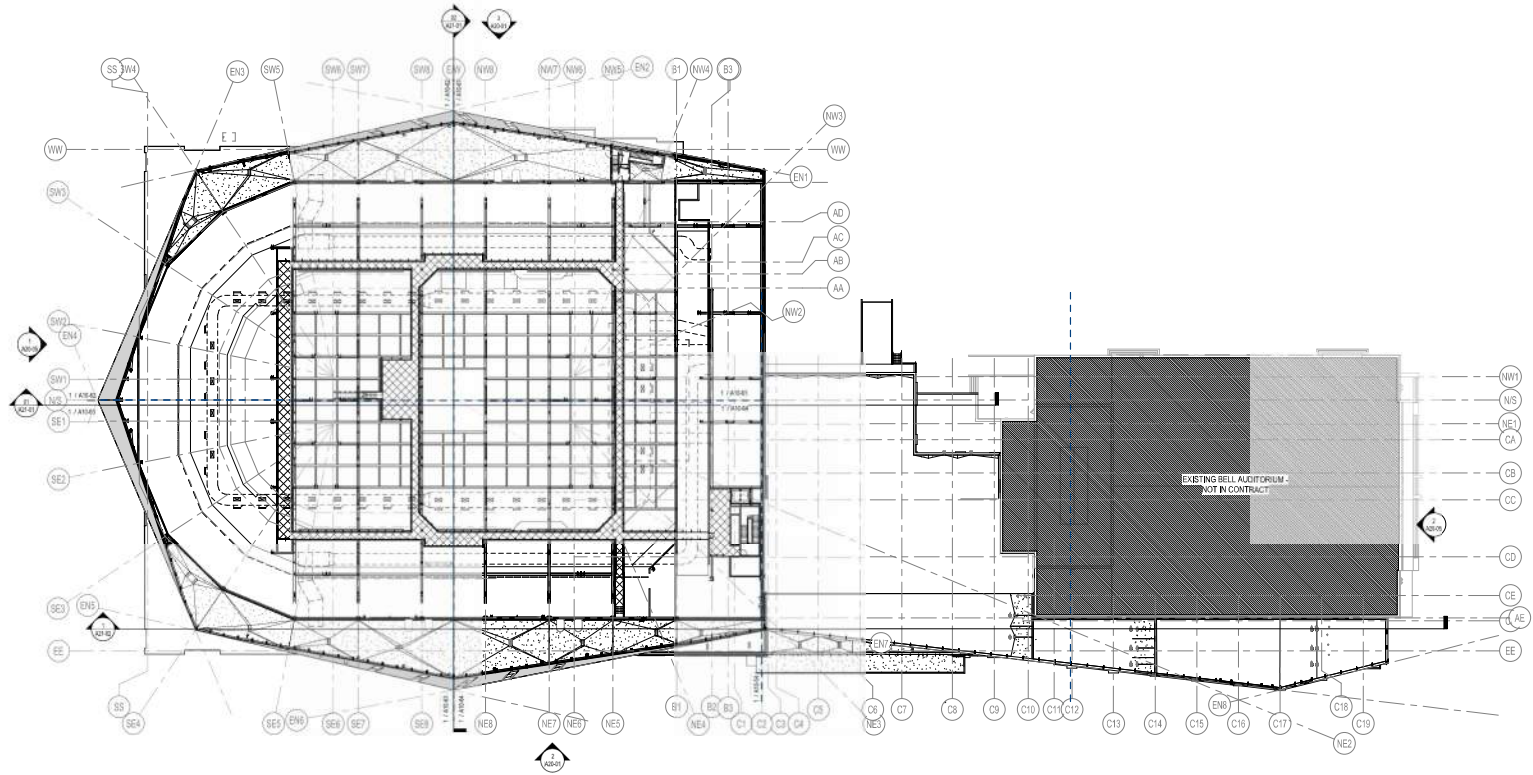
1. PARTITION TYPES ARE SCHEDULED IN THE A11 SERIES. ALL A11 SERIES CODE COMPLIANCE PLANS FOR GRAPHIC EXISTENCE OF FIRE-RATED PARTITIONS. REFER TO PARTITION TYPE SCHEDULE FOR LOCATION OF SOUND ATTENUATION BLANKETS.
2. REFER TO SHEET 05-01 FOR ADDITIONAL GENERAL NOTES.
3. REFER TO FLOOR PLAN SERIES A100 FOR LOCATION OF PARTITION TYPES. ALL PARTITIONS ARE TYPE "W4" UNLESS NOTED OTHERWISE.

**FLOOR PLAN LEGEND**

- BUILDING EXPANSION ZONE
- EXISTING PARTITION TO REMAIN
- NEW PARTITION
- NEW COLUMN
- ▲ EXTERIOR ELEVATION TAG
- ▲ WALL SECTION TAG
- ▲ BUILDING SECTION TAG
- ◇ (ALPHA) EXTERIOR GLAZING SYSTEM TAG REF. A304X SERIES FOR SCHEDULE
- ◇ (NUMERICAL) INTERIOR GLAZING REFER. A304X SERIES FOR SCHEDULE
- DOOR TAG REF. A304X SERIES FOR DOOR SCHEDULE
- ▲ EXTERIOR ASSEMBLY TAG REF. A304X SERIES FOR SCHEDULE
- ▲ PARTITION TAG REF. A304X SERIES FOR PARTITIONS
- ⊕ FLOOR DRAIN
- OWNER FURNISHED EQUIPMENT ITEM

**FLOOR PLAN  
NOTES BY NUMBER**

**FLOOR PLAN  
ALTERNATES BY NUMBER**



1 OVERALL FLOOR PLAN - CATWALK LEVEL 05  
1" = 32'-0"

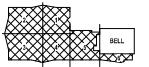
40% CONSTRUCTION DOCUMENTS 11.19.2021



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BROWN ARENA**

601 7th St, Augusta, GA 30901  
STAMP

KEY PLAN



ISSUE CHART

OVERALL FLOOR PLAN -  
CATWALK LEVEL 05

**A10-60**

**ROOF PLAN  
 GENERAL NOTES**

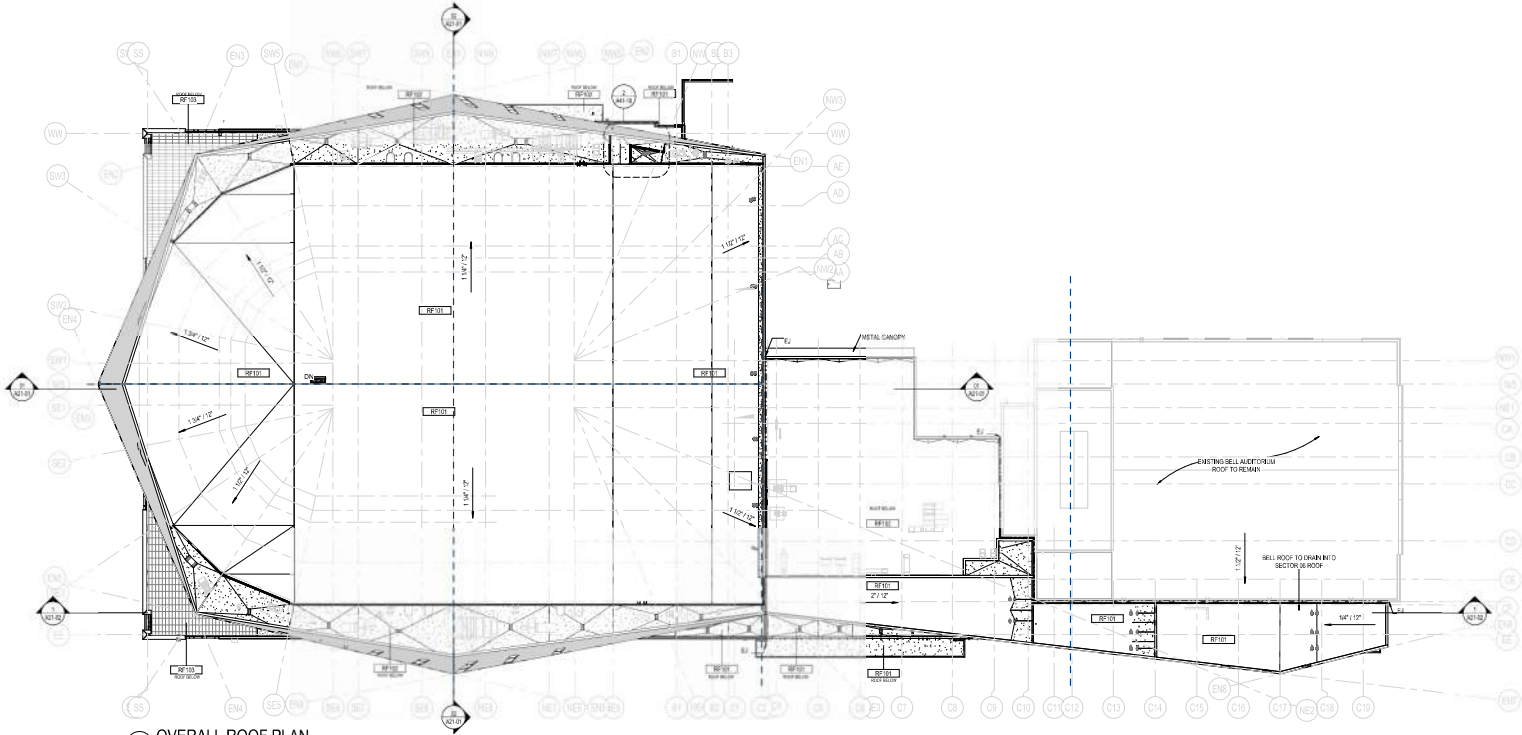
1. REFER TO MECHANICAL, PLUMBING, AND ELECTRICAL FOR LOCATIONS OF PIPING, CURBS, VENTS, DUCTS, TANKS, AND OTHER ITEMS ON THE ROOF SURFACE.
2. PAINT EXPOSED ROOF MOUNTED EQUIPMENT, PIPING, ETC., EXCEPT THOSE ITEMS WHICH ARE ALUMINUM OR STAINLESS STEEL. COLOR AS SELECTED BY ARCHITECT.
3. ALL ROOF FLASHING TO BE INSTALLED ACCORDING TO MANUFACTURER'S REQUIREMENTS.
4. REFER TO PLUMBING DRAWINGS FOR ROOF DRAIN SIZES.
5. OVERFLOW ROOF DRAIN INLETS SHALL BE 2" ABOVE THE PRIMARY DRAIN INLETS.
6. REFERENCE ELECTRICAL FOR LIGHTING PROTECTION SYSTEMS.

**ROOF PLAN LEGEND**

- PRIMARY ROOF DRAIN (2" FROM BEAM CENTERLINE TYP.) ROOF DRAIN SHALL BE 2" BELOW FINISH OF THE ROOF. 2" OVERFLOW DRAIN INLET TO BE SET 2" ABOVE THE PRIMARY ROOF DRAIN WITH A 2" STANDARD 2" DIA. RCP. REF. PLUMBING.
- ROOF VALANCE.
- SLOPE FOR UP PER FOOT MINIMUM OR DA TO DRAIN UNLESS NOTED OTHERWISE.
- 1'-0" ST. TOP OF STEEL ELEVATION
- PARAPET TOP OF PARAPET
- DOWN SPOUT

**ROOF PLAN  
 NOTES BY NUMBER**

Indicates Sheet Keynote on Plan



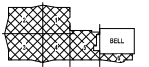
**1 OVERALL ROOF PLAN**  
 1" = 32'-0"

40% CONSTRUCTION DOCUMENTS 11.19.2021



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 BROWN ARENA**  
 601 7th St, Augusta, GA 30901  
 STAMP

KEYPLAN

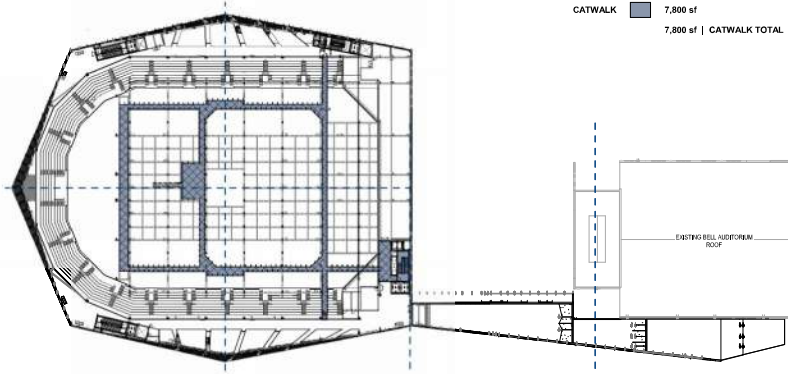


ISSUE CHART

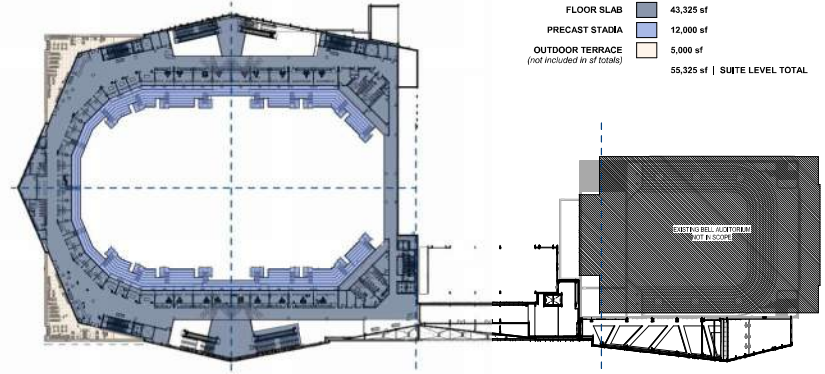
OVERALL ROOF PLAN -  
 ROOF LEVEL

**A10-70**

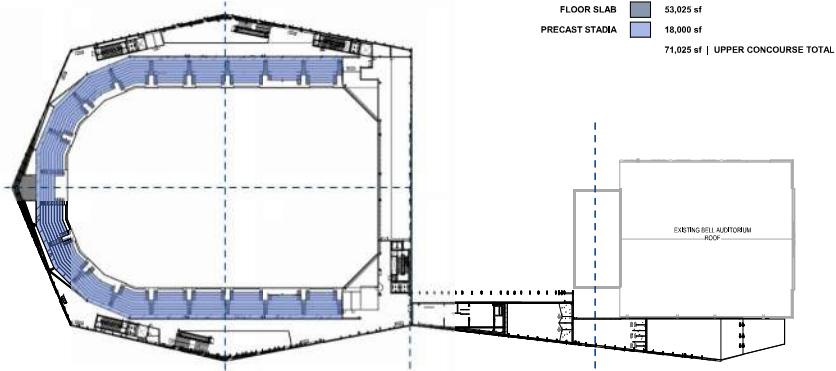




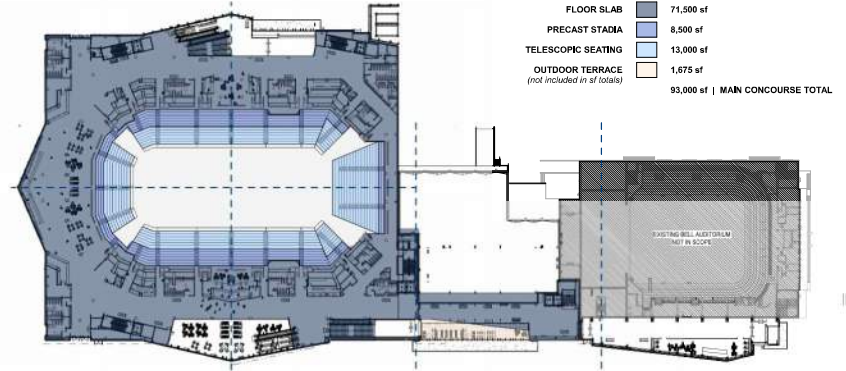
06 OVERALL SQUARE FOOTAGE PLAN - CATWALK LEVEL 05  
 1" = 50'-0"



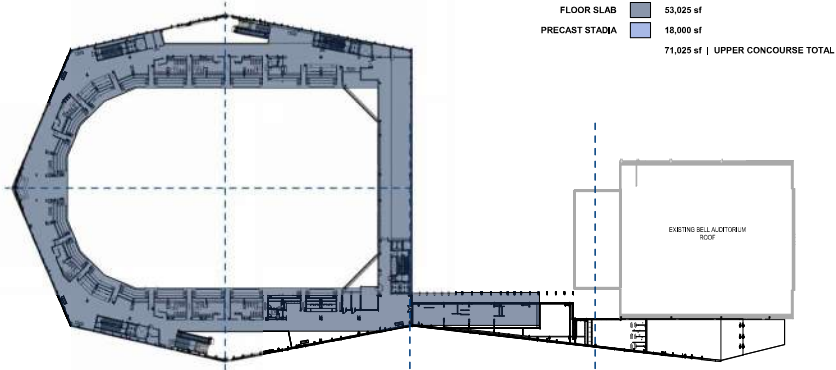
03 OVERALL SQUARE FOOTAGE PLAN - SUITE LEVEL 03  
 1" = 50'-0"



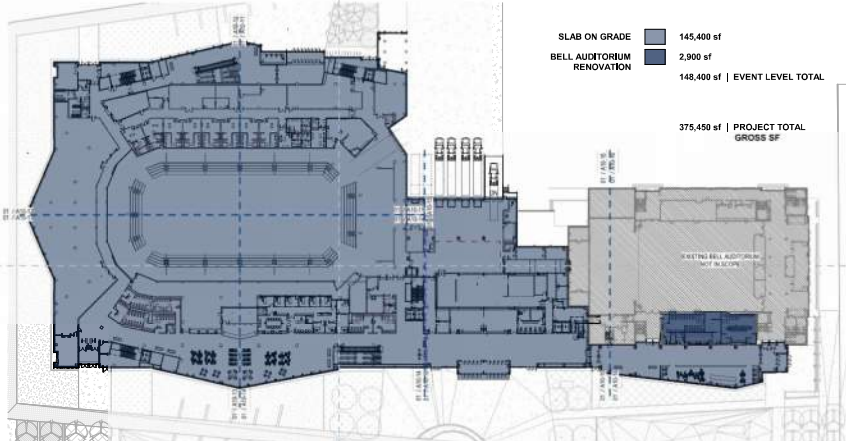
05 OVERALL SQUARE FOOTAGE PLAN - UPPER CONCOURSE 04 (PRECAST)  
 1" = 50'-0"



02 OVERALL SQUARE FOOTAGE PLAN - MAIN CONCOURSE 02  
 1" = 50'-0"



04 OVERALL SQUARE FOOTAGE PLAN - UPPER CONCOURSE 04  
 1" = 50'-0"



01 OVERALL SQUARE FOOTAGE PLAN - EVENT LEVEL 01  
 1" = 50'-0"

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AUGUSTA JAMES BROWN ARENA

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 STAMP

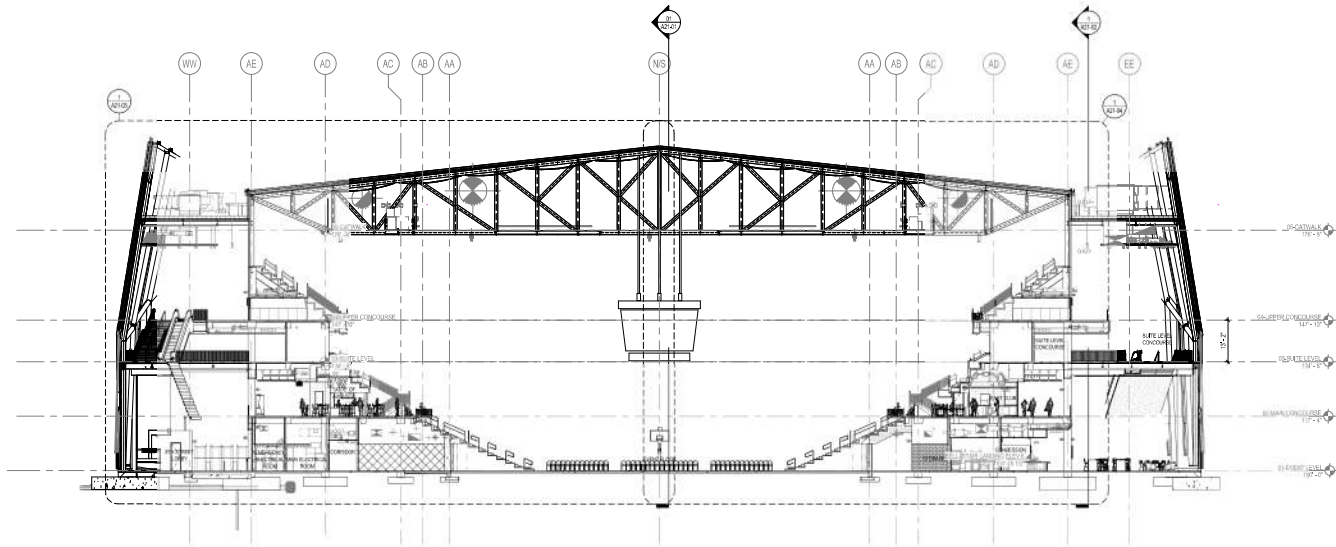
KEYPLAN

ISSUE CHART

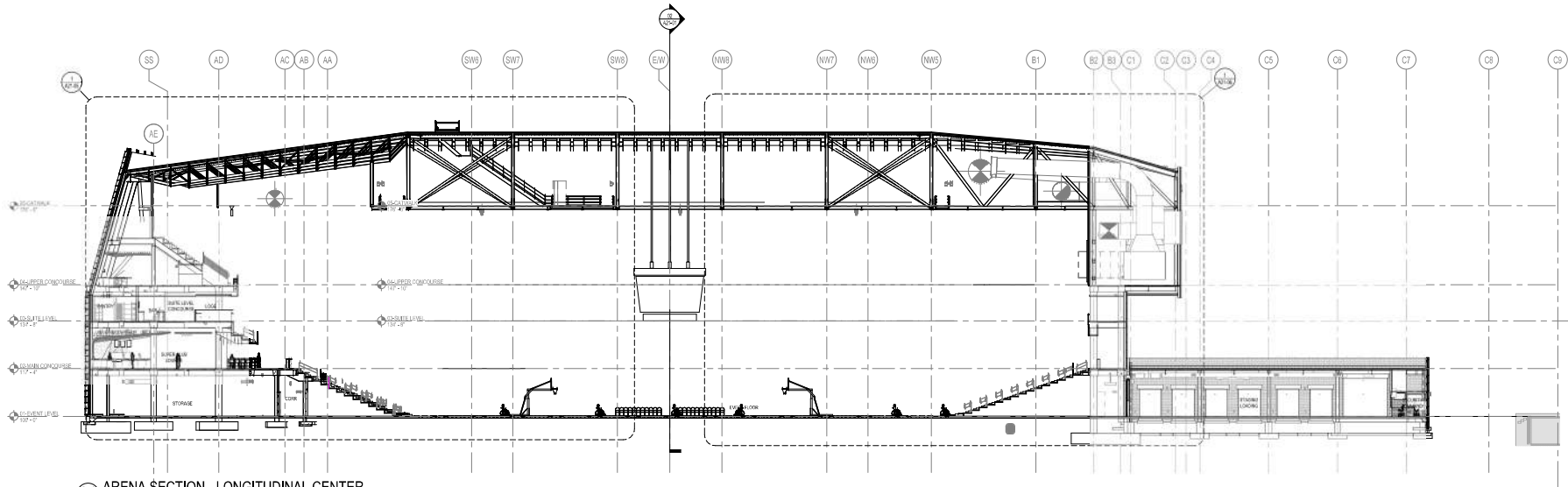
OVERALL SQUARE FOOTAGE PLANS

A10-01

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02 ARENA SECTION - TRANSVERSE CENTER  
 1/16" = 1'-0"



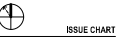
01 ARENA SECTION - LONGITUDINAL CENTER  
 1/16" = 1'-0"

40% CONSTRUCTION DOCUMENTS 11-19-2021



AUGUSTA JAMES BROWN ARENA

601 7th St, Augusta, GA 30901



ISSUE CHART

OVERALL BUILDING SECTIONS

A21-01

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# **EXHIBIT 2**

Contractor Affidavit

**DEPARTMENT OF LABOR E-VERIFY CONTRACTOR AFFIDAVIT FOR CONSTRUCTION (OTHER THAN ROAD CONSTRUCTION) CONTRACTS**

STATE OF GEORGIA

\_\_\_\_\_ COUNTY

**CONTRACTOR AFFIDAVIT AND AGREEMENT<sup>213</sup>**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation that is contracting with \_\_\_\_\_ County has registered with and is participating in a federal work authorization program\* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91, and shall agree to use this program for any newly hired employees throughout the duration of the contract.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with \_\_\_\_\_ County, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. § 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. The contractor further agrees to provide notice to the County of the identify of each subcontractor hired under the contract within five (5) business days of entering into a contract for hire. Such notice shall include a copy of the Subcontractor Affidavit for each subsequent subcontractor attesting to the subcontractor’s name, address, user identification number, and date of authorization to use the federal work authorization program. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the \_\_\_\_\_ County within five (5) days of the time the subcontractor(s) is retained to perform such service.

\_\_\_\_\_  
EEV / Basic Pilot Program\* User Identification Number

\_\_\_\_\_  
Date Authorized to Use E-Verify

\_\_\_\_\_  
BY: Authorized Officer or Agent  
(Contractor Name)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title of Authorized Officer or Agent of Contractor

\_\_\_\_\_  
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires:

\* As of the effective date of O.C.G.A. § 13-10-91, the applicable federal work authorization program is the “EEV / Basic Pilot Program” operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

<sup>213</sup> Modified version from the Georgia Department of Labor website on October 18, 2010: [http://www.dol.state.ga.us/pdf/rules/sb529\\_sample\\_contractor\\_affidavit.pdf](http://www.dol.state.ga.us/pdf/rules/sb529_sample_contractor_affidavit.pdf)

# **EXHIBIT 3**

Construction Manager Agreement

CONSTRUCTION MANAGEMENT AGREEMENT

BETWEEN

AUGUSTA-RICHMOND COUNTY COLISEUM  
AUTHORITY

AND

---

FOR

THE JAMES BROWN ARENA  
AUGUSTA, GEORGIA

PREPARED BY:  
Michael I. Less  
Butler Snow, LLP  
6075 Poplar Avenue, Suite 500  
Memphis, TN 38119  
901.680.7383

Owner Construction Manager  
GMP

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Owner Construction Manager  
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B	Contract Documents	
C	Organizational Chart	
D	GMP Amendment;	
E	Progress Schedule	
F	General Conditions	
G	Partial Lien Waiver and Release	
H	Partial Lien Waiver and Release (for Subcontractors)	
I	Final Lien Waiver & Release	
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**CONSTRUCTION MANAGEMENT AGREEMENT**

**THIS AGREEMENT** (herein the “Agreement”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_2024, between Augusta-Richmond County Coliseum Authority, a public corporation duly created and existing under the laws of the State of Georgia, (hereinafter referred to as "Owner”) doing business at \_\_\_\_\_ and \_\_\_\_\_, (hereinafter referred to as the “Construction Manager”) doing business at \_\_\_\_\_.

**RECITALS**

1. **WHEREAS**, the Owner desires to have constructed certain facilities upon real property owned by Owner in Augusta, Georgia (herein “the Project”), and commonly known as the James Brown Arena Buildings in Augusta, Georgia.
2. **WHEREAS**, the Owner has entered into an agreement to provide design services for the Project with Perkins & Will (herein the “Architect”).
3. **WHEREAS**, the Owner has entered into an agreement to provide Program Management Services for the Project with Nations Group (herein “the Program Manager”
4. **WHEREAS**, the Construction Manager desires to enter into this Agreement as an independent contractor and is ready, willing and able to perform pre-construction services and to construct the Project in accordance with the terms and subject to the conditions of this Agreement.

**NOW, THEREFORE**, in consideration of good and valuable consideration, received or to be received, the sufficiency of which the parties acknowledge, the parties agree as follows:

**ARTICLE 1**

**SCOPE OF THE WORK**

**Section 1.01. Scope of the Work.** The Construction Manager shall provide for no more than the Guaranteed Maximum Price, all of the labor, materials, supplies, tools, equipment, appliances, and facilities necessary to construct the Project upon the real property of the Owner in Augusta, Georgia. The general scope of the Work is more particularly described in Exhibit A, which is attached hereto and incorporated herein by reference. The Construction Manager agrees that the Project shall be constructed in accordance with the terms of this Agreement and the Contract Documents as defined in Article Two of this Agreement. The term “Work” includes, but is not limited to, all labor, materials, equipment and services necessary to construct the Project as described in the Contract Documents, whether or not all materials and equipment are incorporated or to be incorporated in the Project.

**Section 1.02. The Construction Team.** The Construction Manager, the Owner, the Program Manager and the Architect (the “Construction Team”) shall work together during the completion of the design; the furnishing of pre-construction services as required herein and the construction of the project. The Construction Manager shall provide leadership to the Construction Team on all matters relating to construction.

## ARTICLE 2

### **CONTRACT DOCUMENTS**

**Section 2.01. Definition.** The Contract Documents include this Agreement, the Drawings and project manual, all addenda, all exhibits or modifications to any of them, issued prior to or after execution of this Agreement. The Contract Documents are more particularly described in Exhibit B, which is attached hereto and incorporated herein by reference. As used in this Agreement, a “modification” is either:

- (a) a written and signed amendment to the Agreement;
- (b) a Change Order (as defined in this Agreement);
- (c) a written interpretation issued by the Architect, including, but not limited to an Architect’s Supplemental Instruction (ASI); and
- (d) a Construction Change Directive (as defined in this Agreement).

**Section 2.02. Intent of Contract Documents.** The intent of the Contract Documents is to include all design, architecture and engineering, except as otherwise expressly provided in the Contract Documents, materials, appliances, labor and services of every kind necessary for the proper execution of the Work and the terms and conditions of payment for the Work. The Contract Documents are to be considered as one document, and whatever is called for by any one of the documents shall be as binding as if called for by all.

**Section 2.03. Errors in Contract Documents.** Prior to commencing the Work, the Construction Manager shall review all of the Contract Documents and endeavor to identify any error, inconsistency, omission, discrepancy or variance that may be contained therein. Notwithstanding this obligation, the parties understand that Construction Manager is not a licensed design professional, and such review is not performed in the capacity of a licensed design professional. If the Construction Manager finds any error, inconsistency, omission, discrepancy or variance in the Contract Documents, it shall notify the Architect and the Program Manager at least ten (10) days before beginning the affected portion of the Work. The Architect shall make any correction, interpretation or clarification promptly, basing its decision on the intent of the Contract Documents. Failure of the Construction Manager to timely notify the Architect of any such error or inconsistency within the time provided by this paragraph shall bar the Construction Manager from making any claim for additional time or compensation caused by any such error or inconsistency even if the error or inconsistency caused the Construction Manager to incur additional expense or time of performance.

## ARTICLE 3

### **PRE-CONSTRUCTION SERVICES**

**Section 3.01. Construction Manager's Pre-Construction Services.** The Construction Manager will perform the following pre-construction services.

**Section 3.02. Consultation During Project Development.** The Construction Manager shall schedule and attend regular meetings with the Architect, the Program Manager, the Owner and its consultants during the development of design to advise on site use and improvements, selection of materials, building systems and equipment. The Construction Manager shall provide recommendations on construction feasibility, availability of materials and labor, time requirements for installation and construction, and factors related to cost including costs of alternative designs or materials, preliminary budgets and value engineering alternatives. Any material or system proposed by the Construction Manager shall, upon acceptance by the Owner and the Architect, become a part of the Contract Documents.

**Section 3.03. Pre-Construction Schedule.** The Construction Manager shall, within ten (10) days from the execution of this Agreement, prepare a Pre-Construction Schedule which, with input from the Program Manager and the Architect, will include the activities of the Owner and Architect.

**Section 3.04. Review of Contract Documents.** The Construction Manager shall review the drawings and specifications, recommending alternative solutions throughout the pre-construction phase whenever design details affect construction feasibility, costs, or schedules. The Construction Manager shall concentrate on ways to reduce the construction costs and shorten the schedule, without reducing design quality. It is understood, however, that the Construction Manager's review of the drawings and specifications is in the Construction Manager's role as a contractor, and that the Construction Manager shall not be liable for any damages resulting from the failure of the Contract Documents to comply with applicable laws, statutes, building codes, rules and regulations.

**Section 3.05. Construction Planning.** The Construction Manager shall recommend for purchase and expedite, with the Owner's approval, the procurement of long-lead items to ensure their delivery by the required dates. The Construction Manager shall make recommendations to the Program Manager and the Architect regarding the division of Work in the Drawings and Specifications, taking into consideration such factors as time of performance, availability of labor, impact on minority business involvement, overlapping trade jurisdictions, and provisions for temporary facilities. The Construction Manager, without relieving the Architect of its responsibility to produce a fully coordinated and constructible set of drawings and specifications, shall review the drawings and specifications with the Architect and the Program Manager in order to attempt to eliminate areas of conflict and overlapping in the Work to be performed. The Construction Manager shall perform its services in accordance with the standard of care required for Construction Managers performing similar services on similar projects.

**Section 3.06. Cost Estimates.** During preconstruction the Construction Manager shall prepare and furnish to the Owner cost estimates and cost studies while the design is being completed. Such cost estimates and cost studies will be prepared on a regular basis during pre-construction services.

## ARTICLE 4

### **CONSTRUCTION PHASE SERVICES**

**Section 4.01. Construction Manager's Bidding and Construction Services.** The Construction Manager will perform the following services during construction.

**Section 4.02. Bidding Phase.** The Construction Manager shall develop Trade Contractor or Subcontractor interest in the Project and take competitive bids on the Work of the various Trade Contractors. Before soliciting bids, the Construction Manager shall submit a list of proposed Trade Contractors for the Owner's approval. The Construction Manager shall prepare and distribute any and all bidding documents or bid packages, conduct pre-award and post-award conferences with successful bidders as necessary to protect the interest of the Owner. If the Owner has reasonable objection to a person or entity proposed by the Construction Manager, the Construction Manager shall propose another to whom the Owner has no reasonable objection. The Guaranteed Maximum Price, as hereinafter defined, shall be increased or decreased by the difference in cost occasioned by such change and the Substantial Completion Date, as hereinafter defined, if affected, shall be adjusted accordingly and an appropriate Change Order shall be issued.

**Section 4.03. Project Control and Supervision of the Work.**

(b) The Construction Manager shall monitor and coordinate the Work of the Trade Contractors so as to complete the project for the Guaranteed Maximum Price in full accordance with the Contract Documents and no later than the Substantial Completion Date.

(c) The Construction Manager shall maintain a competent full-time staff at the Project site including a full time Project Manager to supervise and insure that the Work and progress of the Trade Contractors is in full compliance with the Contract Documents and Substantial Completion Date set forth in this Agreement. An organizational chart for the services of the Construction Manager is attached hereto as Exhibit C and incorporated herein by reference. Any individual depicted on Exhibit C shall be changed upon written request of the Owner. Such change shall be at no additional cost to the Owner. No individual depicted on Exhibit C shall be changed by the Construction Manager without the written consent of the Owner unless said individual ceases to be in the employ of the Construction Manager. The Project Manager depicted on Exhibit C shall be vested with full authority to make decisions on behalf of the Construction Manager and all directions given to the Project Manager by the Owner shall be binding upon the Construction Manager. The Project Manager shall devote his full time to the Work and shall maintain his office on the site of the Work. He shall direct, coordinate and supervise all Work,



inspect all materials delivered to the site of the Work to ascertain whether or not they comply with the requirements of the Contract Documents, and reject all non-conforming materials or workmanship.

(d) The Construction Manager shall establish on-site organization and lines of authority in order to carry out the overall construction of the Project in full accordance with the Contract Documents.

(e) The Construction Manger shall schedule and conduct regular progress meetings at which the Owner, the Program Manager, the Architect and Construction Manager can discuss jointly such matters as procedures, progress, problems and scheduling. Construction Manager shall take minutes of any project related meeting which it conducts and distribute such minutes within 48 hours of such meeting.

(f) The Construction Manager shall prepare and provide regular monitoring of the schedule for construction as construction progresses and identify potential variances between scheduled dates and actual progress being made. The Construction Manager shall review the schedule of Work not started or incomplete and recommend to the Owner all necessary and appropriate action to be taken to meet the Substantial Completion Date. The Construction Manager shall provide summary reports of each monitoring and document any major changes in schedule.

(g) The Construction Manager shall determine the adequacy of the Trade Contractors' personnel and equipment and the availability of materials and supplies to meet the Progress Schedule and take appropriate action with the Owner's written approval when the requirements of a Trade Contract are not being met.

(h) The Construction Manager shall recommend for purchase and expedite, with the Owner's approval, the procurement of long-lead items to ensure their delivery by the required dates.

**Section 4.04. Physical Construction.** The Construction Manager shall provide all supervision, labor, materials, construction equipment, tools and supplies which are necessary to complete the Work in accordance with the Contract Documents. The Construction Manager shall be allowed to self-perform part of the Work only with the advance written approval of the Owner. If the Construction Manager desires to self-perform part of the Work with its own forces or a subsidiary company, then at least 3 other bids from entities not affiliated with the Construction Manager for that Scope of Work shall be secured and delivered to the Owner. Construction Manager's bid for the self-performed work shall be delivered to the Owner 24 hours in advance of the bid opening of the other vendors.

**Section 4.05. Cost Control.** The Construction Manager shall develop and monitor an effective system of Project cost control and, if applicable, revise the Guaranteed Maximum Price to incorporate any Owner approved changes as they occur. The

Construction Manager shall develop cash flow reports and forecasts as needed by the Owner.

**Section 4.06. Change Orders.** The Construction Manager shall develop and implement a system for the preparation, review and processing of Change Orders and recommend necessary or desirable changes to the Owner. The Construction Manager shall prepare requests for changes, if required by the Owner, and submit such recommendations to the Program Manager and the Architect. Any system proposed by the Construction Manager, and approved by Owner, shall become a part of the Contract Documents.

**Section 4.07. Trade Contractors.** The Construction Manager shall enter into direct contracts with Trade Contractors or Subcontractors and shall be fully responsible for their work, including the timeliness, quality and price of said Work. The Construction Manager shall review and process all applications for payment by Trade Contractors for monthly progress and final payments. The Construction Manager shall pay all Trade Contractors directly. The Construction Manager shall require that the Trade Contractors furnish an acknowledgment of payment/waiver of lien with each application for payment certifying that money has been received for performance of their Trade Contract during the previous payment period and waiving any right to file or assert a mechanic's and materialmen's lien.

**Section 4.08. Inspection.** The Construction Manager shall inspect the Work of Trade Contractors for defects and deficiencies in the Work to ensure that the Work is in full compliance with the Contract Documents.

**Section 4.09. Document Interpretation.** The Construction Manager shall refer all questions for interpretation of the documents prepared by the Architect to the Architect who shall respond to such questions with appropriate answers in a timely manner so as not to delay progress of the Work.

**Section 4.10. Reports and Project Site Documents.** (a) The Construction Manager shall record the progress of the Project and submit written monthly progress reports with progress photos to the Owner, including information on the Trade Contractors and the percentage of completion. The Construction Manager shall keep a daily log which shall be submitted electronically to the Program Manager daily.

(b) The Construction Manager shall maintain, at the Project site on a current basis: records of all necessary Contract Documents, samples, purchases, materials, equipment, maintenance and operating manuals and instructions, and other construction-related documents, including all revisions. The Construction Manager shall obtain data from Trade Contractors and maintain a current set of record Drawings, Specifications and operating manuals and at the completion of the Project, deliver all such records to the Owner.

**Section 4.11. Start-up.** The Construction Manager shall direct the checkout of utilities, operations systems and equipment for readiness and assist in their initial start-up and testing by the Trade Contractors.

**Section 4.12. Order and Discipline.** The Construction Manager shall, at all times, be responsible for enforcing strict discipline and good order among its employees and/or the Trade Contractors. Each Trade Contractor shall receive a site orientation from the Construction Manager prior to commencing on site work. If any person on the site of the Work shall appear to be incompetent, disorderly or intemperate, in any way disrupts or interferes with the Work or is in any other way disqualified for or unfaithful to the job entrusted to him such person shall be discharged immediately and he shall not again be employed on the Work without the prior written consent of the Owner.

**Section 4.13. Clean-up.** (a) During the performance of the Work, the Construction Manager shall keep and cause the Trade Contractors to keep the site of the Work clean and free of all rubbish, waste materials, debris and other materials in accordance with the instructions set forth in the Contract Documents. At the end of each working day, the Construction Manager shall remove and cause the Trade Contractors to remove waste materials, rubbish and debris from and about the Work, as well as surplus materials, and will leave the site of the Work clean in accordance with the Contract Documents.

(b) All materials delivered to the site of the Work shall be stored and handled as to preclude inclusion of any foreign substances, and to prevent any discoloration or damage which might reduce its effectiveness as part of the Work.

**Section 4.14. Safety and Security.** (a) The Construction Manager shall provide for and oversee all safety orders, precautions and programs necessary for the safety of the Work. The Construction Manager shall take the precautions set forth in the Contract Documents in order to insure the safety of all persons involved in the Work, all other persons whom the Work might affect, all equipment and materials incorporated in the Work, all property on the site of the Work and adjacent to it, and the Owner's business operations which are functioning on the site of the Work or in the vicinity of it. Notwithstanding the foregoing, nothing herein shall prohibit the delegation by Construction Manager of responsibility to the Trade Contractors or sub-subcontractors for the safety of such Trade Contractor's employees, its Work (including its materials, equipment and supplies) and the safety of persons and/or property which may be affected by or arise out of the performance of Trade Contractor's Work. Such delegation shall not, however, relieve the Construction Manager of its obligations to Owner hereunder.

(b) The Construction Manager and all of its employees shall comply with all safety and security rules made by the Owner. The Construction Manager will also cause all of its Trade Contractors, suppliers and vendors to comply with all security and safety rules made by the Owner.

(c) Prior to the commencement of the Work, Construction Manager shall provide the Owner with a list of its salaried employees who will be onsite.

**Section 4.15. Inspection of the Work.** (a) The Owner, the Program Manager and persons designated by the Owner shall at all times have access to the Work wherever it is in preparation or progress and the Construction Manager shall

provide proper facilities for such access. If the Program Manager or Architect discovers any defective Work in connection with any inspection, it shall report such defective Work to the Construction Manager in writing and the Construction Manager shall correct it.

(b) If the Contract Documents, the written instructions of the Program Manager, laws, codes, ordinances, rules, regulations or applicable standards, or any public authority require any of the Work to be specifically tested or inspected, the Construction Manager shall schedule such inspections with the appropriate public officials and shall copy the Program Manager on the inspection request. If any of the Work requiring inspection or testing should be covered up without the approval or consent of the Program Manager or any necessary authority, it shall be uncovered for examination, if required by the Program Manager or such other authority, at the sole expense of Construction Manager.

(c) Re-examination of questioned work that has been previously inspected by the Owner may be ordered by the Owner and, if so ordered, the questioned Work shall be uncovered by the Construction Manager. If such work is found to be in compliance with the Contract Documents, the Owner shall pay the actual cost of the re-examination and, if appropriate, the Substantial Completion Date will be extended accordingly. If such Work is found to be not in compliance with the Contract Documents, the Construction Manager shall bear the costs of the re-examination.

**Section 4.16. Construction Manager to Secure Permits** . The Construction Manager shall secure and pay for the building permit. The Construction Manager shall secure and pay for all fees, licenses and other local permits necessary for the Construction Manager and Trade Contractors to lawfully perform the work. All such charges shall be deemed a reimbursable expense.

**Section 4.17. Compliance with Laws**. The Construction Manager shall give all notices and shall comply with all laws, ordinances, rules, regulations and orders of any public authority having jurisdiction over the Work, which have any bearing on the execution of the Work. If the Construction Manager observes that any of the Contract Documents are at variance in any respect with any such laws, ordinances, rules, regulations and orders, it shall promptly notify the Program Manager and the Architect in writing and any necessary changes shall be made. If the Construction Manager fails to give such notice or executes any of the Work in a manner it knew or should have known is contrary to any such laws, ordinances, rules, regulations or orders, it shall bear all resulting costs to correct said work to comply with such laws and regulations and be liable for any resulting fines, penalties, judgments or damages imposed on or incurred by the Owner.

**Section 4.18. Payment of Taxes by Construction Manager**. (a) Any and all taxes, excise, duties and assessments in any manner levied, assessed or imposed by any government or subdivision or agency having jurisdiction over the Work (other than taxes on the real property of Owner), shall be the sole responsibility and liability of the Construction Manager.

(b) The Construction Manager shall promptly pay and discharge when due, unless the validity or application is being contested by the Construction Manager in good faith, any and all taxes, excises, duties and assessments, together with any interest and penalties, if any, the responsibility and liability for which the Construction Manager has assumed pursuant to the provisions of paragraph (a)), unless any such tax, excise, duty or assessment is levied, assessed or imposed upon the Owner, in which case the Owner shall promptly give the Construction Manager notice of such levy, assessment or imposition, whereupon the Construction Manager shall promptly pay and discharge the same. Upon the written request and at the sole expense of the Construction Manager, the Owner shall assist the Construction Manager in contesting the validity or application of any such levy, assessment or imposition, and in the event a refund of all or any part of any tax, excise, duty or assessment (including interest and penalties, if any), said refund shall be refunded to the Construction Manager (less the amount of expenses including reasonable attorney's fees associated with such contest not previously reimbursed by the Construction Manager to the Owner).

**Section 4.19. Shop Drawings and Samples; Material Testing.**

(a) Definitions. As used in this Agreement, "Shop Drawings" are drawings, diagrams, illustrations, schedules, performance charts, brochures and other data which are prepared by the Construction Manager, any Trade Contractor, any manufacturer, supplier or distributor, and which illustrates

(b) Some portion of the Work. As used in this Agreement "Samples" are physical examples furnished by the Construction Manager to illustrate materials, equipment or workmanship.

(c) Submissions. Construction Manager shall review, stamp with its approval and submit, in orderly sequence so as to cause no delay in the Work or in the Work of any Trade Contractor, all Shop Drawings and Samples required by the Contract Documents or subsequently by the Architect. Shop Drawings and Samples shall be properly identified as specified in the Contract Documents, or as the Architect may require. At the time of submission, the Construction Manager shall inform the Architect in writing of any deviation in the Shop Drawings or Samples from the requirements or the Contract Documents. By approving and submitting Shop Drawings and Samples, the Construction Manager represents that it has determined and verified all field measurements, field construction criteria, materials, catalog numbers and other data, and that it has checked and coordinated each Shop Drawing and Sample with the requirements of the Work and the Contract Documents.

(d) Review by the Architect. The Architect will review and approve Shop Drawings and Samples and return the same to Construction Manager for conformance with the design intent of the Contract Documents. The approval of the Owner and/or Architect or its agents of a given item shall not indicate approval of an assembly in which the item functions. The approval of Architect of Shop Drawings or Samples shall not relieve the Construction Manager of responsibility for any deviation from the requirements of the Contract Documents unless the Construction Manager has

informed the Architect in writing of such deviation at the time of submission and the Architect has given written approval of the specific deviation, nor shall the approval of the Architect relieve the Construction Manager from responsibility for errors or omissions in the Shop Drawings or Samples.

(e) Corrections Made by Construction Manager. The Construction Manager shall make any corrections required by the Program Manager and/or Architect and shall submit the required number of corrected copies of Shop Drawings or new Samples until approved. The Construction Manager shall direct specific attention in writing or on resubmitted Shop Drawings to revisions other than the corrections requested by the Architect and/or Program Manager on previous submissions.

(f) Prior Approval Required. No portion of the Work requiring a Shop Drawing or Sample submission shall be commenced until the submission has been approved by the Owner and/or Architect. All such portions of the Work shall be performed in accordance with approved Shop Drawings and Samples and the Contract Documents.

(g) Submittal Schedule. Within seven (7) days from the execution of this Agreement, the Construction Manager shall provide the Program Manager and the Architect with a preliminary submittal schedule of the dates that each Shop Drawing or Sample will be submitted for approval. Within thirty (30) days thereafter, the Construction Manager shall provide the Program Manager with a final schedule of the dates that each Shop Drawing or Sample will be submitted for approval. The sequence of the submittals of the Construction Manager shall be scheduled so as to permit an orderly review by the Program Manager. The schedule shall allow reasonable added time according to the number or complexity of Shop Drawings in each submittal for the checking, correction, and rechecking of corrections, as well as for return of approved or rejected Shop Drawings and Samples to the Construction Manager. The submittal schedule shall allow not less than fourteen (14) calendar days for the Program Manager to review and return any Shop Drawing or Sample.

(h) Material Testing. Testing of materials and equipment shall be performed by the Owner but the scheduling of same shall be coordinated by the Construction Manager. At its option, the Owner may accept the certified mill or laboratory certificate of the manufacturer in lieu of special testing, or the Owner may require a certificate from a recognized commercial testing laboratory satisfactory to it certifying that the materials or equipment have been tested within a period acceptable to the Owner and conform to the requirements of the Contract Documents. The Program Manager may require that the Construction Manager make actual tests of any product or materials and submit a report on the results of such tests. Such tests shall be made by a recognized testing laboratory satisfactory to the Program Manager. All tests required to determine the suitability of items proposed by the Construction Manager in substitution for items specified in the Contract Documents shall be performed by the Construction Manager at its expense.

## ARTICLE 5

### **PROGRESS OF THE WORK**

**Section 5.01. Commencement and Completion.** The Construction Manager shall commence the Work within seven (7) calendar days following receipt of written notice to proceed from the Owner and shall achieve substantial completion of the Work as set forth in the GMP Amendment (the “Substantial Completion Date”). The Construction Manager warrants that it will deliver the Project to the Owner free from any and all mechanics’ liens or other encumbrances. Construction Manager further agrees to promptly (which is defined for purposes of this paragraph as no more than three days from receipt of any lien or other notice) notify the Owner and the Program Manager of the existence of any and all mechanics’ liens filed by any Trade Contractors, materialmen, suppliers or sub-subcontractors. If any mechanics’ liens are filed, Construction Manager shall, at its expense, bond off any such mechanics’ liens within three (3) days from a written request of Program Manager to do so. Time is of the essence, and the Substantial Completion Date may be altered only as provided in this Agreement. For purposes of this Agreement, substantial completion shall occur when the Work is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and only minor punch list work remains to be done. The Architect will, upon request of the Construction Manager, issue a certificate establishing the Substantial Completion Date at any time after Substantial Completion has occurred.

**Section 5.02. The Progress Schedule.** Within fourteen (14) days from the date of this Agreement, the Construction Manager shall submit to the Program Manager for approval, a detailed progress schedule, which may be, in the discretion of the Program Manager, a Critical Path Method (CPM) schedule depicting all activities which will occur on the Project; the duration of such activities; the start and finish dates of such activities; a final and Substantial Completion Date; and the interdependence of all such activities. The Progress Schedule when submitted shall be attached hereto as Exhibit E and incorporated herein by reference. The Construction Manager shall submit to the Program Manager updated progress schedules each month to reflect actual progress made and to forecast future progress of the Work. The Owner reserves the right to reschedule the Work or the sequence of the activities of the Construction Manager at no cost to the Owner should it deem such rescheduling is in its best interest. At least fifteen (15) days prior to the due date of the first payment to be made hereunder by the Owner and thereafter on a monthly basis, the Construction Manager shall submit to the Program Manager a cash flow projection depicting the projected monthly cash flow and schedule update for the Project.

**Section 5.03. Extension of Substantial or Final Completion Date.** (a) Except at otherwise expressly provided herein, the substantial or final completion date, shall be extended only for such number of calendar days that the Work is actually delayed by a casualty, a fire, unusually severe inclement weather or a Change Order, (herein “Excusable Delays”). No extensions to the Substantial Completion Date shall be granted due to the negligence or fault of the Construction Manager or its Trade Contractors, non-availability of materials or non-availability of local labor. No extension to the Substantial Completion Date shall be granted for the

period of time during a delay in the performance of the Work which is caused in part by the Owner, the Program Manager or the Architect and in part by the Construction Manager or one for whom the Construction Manager is responsible (“Concurrent Delay”). A request for a time extension based upon inclement weather shall be supported by climatological data from the Augusta area office of the National Weather Service covering the period of delay and the same calendar period for the five preceding years. When the weather for the period of delay exceeds in intensity or frequency the five-year average for the same period, a time extension will be considered. For a day to be considered as a possible non-working day due to rainfall, the rain on that day must exceed one inch. Whether or not a time extension is granted will depend upon whether the inclement weather being performed during the period of delay is on the critical path of the most current schedule for the Project. No extension will be granted for normal inclement weather conditions such as rain, snow and freezing temperatures.

(b) In order to obtain an extension of the final completion date or the Substantial Completion Date due to an Excusable Delay, the Construction Manager in each instance shall give written notice to the Program Manager and the Owner within ten (10) days after the occurrence of each Excusable Delay, and upon the failure of the Construction Manager to do so, it’s right, if any, to an extension will be considered waived. The Owner shall render a written decision which shall be made in good faith granting, or refusing the request of the Construction Manager for an extension within a reasonable time after receipt of the request for a time extension. If a Change Order is agreed to by the Construction Manager and Owner, any extension of the Substantial Completion Date caused by the Change Order work must be stated in the Change Order. Failure to do so will bar the Construction Manager from later seeking an extension to the Substantial Completion Date because of the Change Order work. No extension to the Substantial Completion Date or final completion date shall be granted due to the aggregate number of Change Orders.

**Section 5.04. No Damage for Delay.** Construction Manager agrees to prosecute the Work and to require the trade contractors to prosecute the Work in a timely and proper method so as to meet the dates reflected on the progress schedule. In the event that the Construction Manager is delayed in the prosecution of the Work through no fault of the Construction Manager or its trade contractors, and for causes as set forth in Paragraph 5.03(a) of this Agreement, and defined therein as Excusable Delay, then the Construction Manager may seek a time extension in accordance with the provisions of Paragraph 5.03(b). Construction Manager agrees that such time extension is its sole and exclusive remedy for any damages regardless of the cause of such delays. Construction Manager also agrees that the Owner shall not be liable for any other monetary damages sustained by Construction Manager for acceleration, disruption, suspension, resequencing of the Work or any other damages related to the progress schedule regardless of the cause of such damages.

**Section 5.05. Liquidated Damages.** If the Construction Manager fails to complete the Work by the Substantial Completion Date, as that date may be extended pursuant to the terms of this Agreement, a deduction will be made from the money due the Construction



Manager hereunder, not as a penalty, but as liquidated damages (hereinafter “Liquidated Damages”). For each calendar day after the Substantial Completion Date that the Construction Manager fails to achieve substantial completion, the amount of Liquidated Damages shall be Seven Thousand Five Hundred Dollars (\$7,500) per calendar day. In addition to the foregoing sum, the Construction Manager agrees to pay the Owner the sum of Seven Thousand Five Hundred Dollars (\$7,500) per calendar day for each calendar day that the Construction Manager does not achieve final completion of the Project after thirty (30) days from the Substantial Completion Date.

## **ARTICLE 6**

### **PAYMENT**

**Section 6.01. Guaranteed Maximum Price.** The Owner and the Construction Manager agree that a Guaranteed Maximum Price (“GMP”) will be established no later than 45 days from the completion of 50% Construction Documents and in no event later than May 15, 2024. The components of the GMP are described in the Construction Manager’s proposal, which will be attached hereto as D. The Owner agrees to pay the Construction Manager up to the amount of the GMP. The GMP includes the Fee of the Construction Manager stipulated in Section 6.01(b), Cost of the Work, and the General Conditions (indirect costs) of the Construction Manager as described in Exhibit E, which is attached hereto and incorporated herein by reference. The maximum paid by the Owner for the Work to be performed by the Construction Manager is guaranteed by the Construction Manager not to exceed the GMP. Notwithstanding anything herein to the contrary, the GMP is not a line item guarantee, other than the line item for General Conditions. With the Owner’s permission, the Construction Manager may transfer proper Costs of the Work, as defined herein, from a line item within the GMP to another line item within the GMP. This right to transfer Costs of the Work from one line item to another shall not extend to the line item for General Conditions.

**Section 6.02. Preconstruction Fee.** The Construction Manager shall perform all Preconstruction Services for a fee of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The Construction Manager’s Preconstruction Proposal and Preconstruction Scope of Work is attached hereto as Exhibit \_\_\_\_\_.

**Section 6.03. Fee of the Construction Manager.** As consideration of the full and complete performance of all the Work, the Owner agrees to pay the Construction Manager, in current funds as compensation in full, a fee of \_\_\_\_% of the Cost of the Work as defined herein. The Fee of the Construction Manager includes all compensation and profit of any description of Construction Manager for the Project, which the Owner is obligated to pay the Construction Manager in connection with or growing out of the Work. The Construction Manager’s Fee shall be paid periodically and in accordance with the procedure established in Section 6.02. The portion of the Fee of the Construction Manager earned in any given pay period shall be calculated as follows:

$$\frac{\text{(Cost of Work in Pay Period)} \times \text{The Total Construction Manager's Fee}}{\text{(Total Estimated Cost of the Work)}} = \text{The Construction Manager's Fee payable that month}$$

Retainage in the amount of 10% shall be withheld by the Owner on the Cost of the Work and the Construction Manager's Fee.

**Section 6.04. Cost of the Work** The word Cost of the Work shall mean cost, excluding the Fee of the Construction Manager, necessarily incurred in the proper performance of the Work. Such cost shall be at rates not higher than the standard paid in the locality of the Project except with prior written consent of the Owner, and shall only include the items set forth below in this Section 6.01(d).

(a) Wages paid for labor in the direct employ of the Construction Manager in the performance of Work under a salary or wage schedule set forth in the Contract Documents or otherwise agreed upon by the Owner and Construction Manager, and including such welfare or other customary benefits, if any, as may be payable with respect thereto. A Schedule of Wage Rates for labor in the direct employ of the Construction Manager is attached hereto as Exhibit \_\_\_\_ and incorporated herein by reference. The Construction Manager shall submit a Schedule of all labor rates for each Trade Contractor reflecting straight time and overtime rates within thirty (30) days from the date of the Agreement. The Owner shall have the right to audit such rates.

(b) General Conditions such as technology costs, salaries, including benefits, of Construction Manager's personnel when stationed at the field so long as specifically listed on Exhibit F. Provided such costs are approved in advance and in writing by the owner, the cost of personnel engaged at shops or on the road in expediting the production or transportation of materials or equipment for the Project.

(c) Cost of contributions, assessments or taxes incurred during the performance of Work for such items as unemployment compensation and social security, insofar as such cost is based on wages, salaries, or other remuneration paid to employees of the Construction Manager and included in the Cost of the Work.

(d) Cost of all materials, supplies, products and equipment incorporated in the Work, including cost of transportation and storage thereof.

(e) Payments made by the Construction Manager to Trade Contractors for Work performed pursuant to Trade Contracts under this Agreement, including premiums for Trade Contractors' payment and performance bonds.

(f) Rental charges of all necessary machinery and equipment, exclusive of hand tools, used on the site of Work, whether rented from the Construction Manager or others, at rental charges consistent with those prevailing in the area. Prior to requesting reimbursement from the Owner for any Costs of the Work for rental charges, the Construction Manager will furnish the Program Manager with a projected rental cost for each piece of equipment used by the Construction Manager in the performance of the Work, and a cost benefit analysis of renting equipment compared to purchasing that equipment. The Construction Manager agrees that the reimbursement for rental or owned equipment will not exceed 70% of the cost of such equipment. Thereafter, the Construction Manager shall not be entitled to any further reimbursement for the cost of the use of such equipment regardless of whether or not the equipment is used thereafter

on the Project. Any equipment, where reimbursement to the Construction Manager equals or exceeds 70% of the cost of such equipment, shall become the property of the Owner at the conclusion of the Project, or, at the Owner's option, a credit for the fair market value of the equipment shall be given by the Construction Manager to the Owner. In the event the Owner elects to take ownership of the equipment, the Construction Manager shall transfer title of the equipment to the Owner.

(g) Cost of insurance for Construction Manager at a rate of \_\_\_\_\_ of the GMP for the coverages set forth in Exhibit O. and Subcontractor Default Insurance (SDI) at a rate of \_\_\_\_\_ of the Subcontract Value , Subcontractor payment and performance bonds, cost of required payment and performance bonds. There shall be no markup permitted on any Builder's Risk Policy furnished by the Construction Manager.

(h) Documented sales taxes, but not use taxes, related to the Work and for which the Construction Manager is liable and which tax is imposed by any governmental authority.

(i) Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, copying, office equipment and supplies, expressage and similar petty cash items in connection with the Work not provided by the Owner.

(j) Cost of removal of all debris.

(k) Cost incurred due to an emergency affecting the safety of persons and property, caused by someone other than the Construction Manager or Trade Contractors.

(l) Cost of General Conditions (Indirect) which shall not exceed the lump sum of \_\_\_\_\_ (\$\_\_\_\_\_).

**Section 6.05. Cost Not to be Paid by Owner.** Cost of the Work shall not include any of the items set forth below in this Section 6.01(d).

(a) Salaries or other compensation of the Construction Manager's personnel at the Construction Manager's principal office and branch offices not previously approved by Owner.

(b) Expenses of the Construction Manager's principal and branch office.

(c) Any part of the Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work.

(d) Except as specifically provided for herein, or in modifications hereof, rental cost of machinery and equipment or cost of Construction Manager owned equipment.

(e) Home office overhead or general corporate expenses of any kind.

(f) Cost due to the fault or negligence of the Construction Manager, any trade contractor, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including but not limited to, the correction of damaged, defective or nonconforming Work, disposal of materials and equipment, or making good any damage to property.

(g) Any cost not specifically and expressly included in Section 6.01(d).

(h) Costs in excess of the Guaranteed Maximum Price.

**Section 6.06. Construction Contingency and Buyout Savings.** In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency ("Contingency") for the Construction Manager's use to cover those Costs of the Work that are included in the Guaranteed Maximum Price, but not otherwise allocated to another line item or included in a Change Order. The amount of the Contingency set forth in the proposal shall not exceed an amount equal to three percent (3%) of the sum of the Cost of the Work for Trade Contractors. The Contingency shall be documented in a separate line item on the Schedule of Values and shall be clearly identified as the Contingency. The Contingency is a fixed amount that does not increase with Change Orders. For clarification, once the Guaranteed Maximum Price is established, the total aggregate amount of Contingency for the entire Work shall not exceed an amount equal to three percent (3%) of the aggregate sum of the Cost of the Work for Trade Contractors. The Contingency is for unanticipated actual, reasonable and substantiated additional Costs of the Work incurred by Construction Manager for the Project resulting from: rework delays, commodity shortages (including but not limited to fuel, steel and concrete), labor shortages or scope gaps. The Construction Manager shall provide to the Owner, on a monthly basis, 1) a detailed accounting of any amounts charged to the Contingency, and 2) an accounting of any savings achieved by the Construction Manager to a line item within the GMP during the buyout of labor, materials, or subcontracts. The accounting shall include anticipated expenditures that will be charged to the Contingency within the GMP. Notwithstanding anything to the contrary in the Contract Documents, the Contingency shall not be used for (a) costs incurred due to the Construction Manager's negligence, breach of contract, fraud or willful misconduct; (b) costs incurred due to a Trade Contractors negligence, breach of contract, fraud or willful misconduct; (c) cost overruns in General Conditions (unless Owner has approved such use in writing); (d) increasing the Construction Manager's Fee; (e) costs incurred with respect to defending claims against Construction Manager by third parties or by Owner, or for paying damages to third parties or to Owner, including liquidated damages, owed by Construction Manager pursuant to the Contract Documents or applicable law; (f) funding any "Costs Not to Be Reimbursed" under this Agreement; or (g) costs incurred by Construction Manager to cover insurance deductibles for which it is responsible under the Contract Documents, including SDI deductibles, Builder's Risk deductibles, or any other insurance deductibles.

**Section 6.07. Payment Procedure.** Progress payments shall be made by the Owner to the Construction Manager in accordance with the following procedure:

(a) On or about the last day of each calendar month during the performance of the Work or the preceding working day if the last day is a Saturday, Sunday or holiday, the Construction Manager shall submit to the Program Manager and Architect an Application and Certificate for Payment, based on the Work completed during the that month, using the form provided by the Program Manager. Payment shall be based upon the Cost of the Work completed and the Fee earned during the pay period.

(b) Each Application and Certificate for Payment, at the option of the Owner, Program Manager or Architect, shall be accompanied by: 1) lien waivers of the Construction Manager and its Trade Contractors conditioned upon payment by the Owner of the amount due to the Construction Manager; 2) other documentation as may be requested by the Program Manager or the Architect for the proper review of the Application and Certificate for Payment; and 3) a list of current Trade Contractors, sub-subcontractors and material suppliers. The form of Partial Lien Waiver to be used by the Construction Manager is attached hereto as Exhibit F and incorporated herein by reference. The form of Partial Lien Waiver to be used by Subcontractors is attached hereto as Exhibit G and incorporated herein by reference.

(c) The Architect shall promptly review each Application and Certificate for Payment and approve it for such amount as is properly due under the Contract Documents.

(d) Payments by the Owner shall be made by the last day of the month on which an Application and Certificate for Payment has been submitted or the next working day if the last day of the month is a Saturday, Sunday or holiday.

**Section 6.08. Retainage.** In making progress payments pursuant to Section 6.02, the Owner shall retain ten percent (10%) of the approved amount of any Application and Certificate for Payment. Such retained amounts shall not be due and payable to the Construction Manager until final completion of the Work by the Construction Manager and final acceptance of the Work by the Owner. Upon the Construction Manager's request, the Owner may, at the Owner's option, release retainage for trade contractors whose work has been completed and accepted by the Owner in accordance with Section 6.12. An early release of retainage will only apply to Trade Contractors who perform work on early packages and who have completed 100% of their work.

**Section 6.09. Payment for Material Stored On-Site.** Payment for the actual unit cost of materials suitably stored on the site of the Work and intended for incorporation in the Work will be made by the Owner to the Construction Manager subject to the provisions of Section 6.02 and the following conditions:

- (i) The Construction Manager shall furnish supporting evidence satisfactory to the Program Manager and the Architect evidencing the cost of the materials and shipment to the site of the Work.

- (ii) The materials shall not be stored on the site of the Work for more than forty-five (45) calendar days before they are installed in place, without the written consent of Program Manager or Architect.
- (iii) The materials shall be stored on-site in accordance with applicable recommendations of the manufacturer and the instructions of the Program Manager or Architect;
- (iv) Payment for stored materials will be subject to retainage as defined in Section 6.08;
- (v) The Program Manager or the Architect may inspect and inventory any stored materials.

(b) Payment will not be made for materials stored off the site of the Work without the written consent of Owner. In the event that the Owner consents to payment for materials stored off site, such payment shall be conditioned upon submission by the Construction Manager of bills of sale or such other documentation satisfactory to the Program Manager and Architect to establish the title of the Owner to such materials or equipment, and the submission of satisfactory insurance certificates for the stored materials.

(c) Notwithstanding any provision to the contrary, if payments are to be made on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site of the Work, such payments shall be conditioned upon submission by the Construction Manager of bills of sale or such other documentation satisfactory to the Program Manager or Architect to establish the title of the Owner to such materials or equipment, and the submission of satisfactory insurance certificates for the stored materials to protect the interest of the Owner.

(d) Regardless of ownership or insurance, the Construction Manager shall remain the guardian and protector of all materials stored or incorporated into the Work.

**Section 6.10. Use of Payments.** The Construction Manager shall use all sums paid to it pursuant to this Agreement for the performance of the Work in accordance with the Contract Documents. Upon the request of the Program Manager or Architect, the Construction Manager shall furnish satisfactory proof, including, but not limited to, partial release of liens, as to the disposition of any monies paid to the Construction Manager by the Owner; provided, however, no provisions shall be construed to require the Owner, Program Manager or the Architect to see to the proper disposition or application of the monies paid to the Construction Manager.

**Section 6.11. Payment Not a Waiver.** Neither the approval or making of any payment to the Construction Manager, nor the partial or entire use of occupancy of the Work by the Owner shall be deemed an acceptance of any portion of Work.

**Section 6.12. Final Payment.** (a) Final Payment by the Owner shall constitute a waiver of all claims by the Owner for performance of the Work except for claims of the Owner arising from unsettled liens, incomplete or defective workmanship, defective materials, failure to perform in accordance with the progress schedule, or for the breach of any guarantees of warranties provided or to be provided by the Construction Manager under this Agreement. Acceptance of the Final Payment by the Construction Manager shall constitute a waiver and release of any and all claims which the Construction Manager may then have or in the future have against the Owner, Program Manager, or the Architect arising from the Work or this Agreement.

(b) Final Acceptance of the Work shall occur only after all Work (including punch list items) provided for in the Contract Documents has been finally completed and accepted in writing by the Owner, and only after the Construction Manager has provided the Program Manager with instructions and operating manuals, parts lists, "as built" drawings and all other items required by the Contract Documents and this Agreement.

(c) Within thirty (30) days after Final Acceptance of the Work, the Final Payment of amounts found properly due under the Contract Documents, including amounts previously retained pursuant to Section 6.08, shall be paid to the Construction Manager.

(d) Neither the Final Payment nor the remaining retainage shall become due until the Construction Manager submits to the Program Manager the following:

- (1) An affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or its property might in any way be responsible, have been paid or otherwise satisfied;
- (2) A Final Lien Waiver in the form attached hereto as Exhibit J; and
- (3) Other data establishing payment or satisfaction of all such obligations, such as receipts, releases and one hundred percent waivers of liens arising out of the Work, to the extent and in such form as may be designated by the Owner or Architect.
- (4) A Consent of Surety to Final Payment.

(e) If any Trade Contractor refuses to furnish a release or waiver required by the Owner or the Architect, the Construction Manager shall furnish a bond satisfactory to the Owner to indemnify it. If any such lien is filed by the Trade Contractor and remains unsatisfied after all payments are made, the Construction Manager shall refund to the Owner all monies that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees incurred by Owner.

(f) The Architect shall issue a certificate of final completion when, in its sole discretion, the Project has been completed and all conditions required by Section 6.07 have been complied with by Construction Manager.

**Section 6.13. The Right of Owner to Withhold Payment.** The Owner may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any payment, including Final Payment and withhold retainage, to such extent as may be necessary to reasonably protect itself from any of the following:

- (a) defective work; or
- (b) third-party claims filed or reasonable evidence indicating probable filing of such claims; or
- (c) reasonable doubt that the Work will be substantially completed by the Substantial Completion Date; or
- (d) failure of the Construction Manager to make payments properly to trade contractors or for equipment, materials, services or labor; or
- (e) reasonable evidence of fraud, over-billing or overpayment; or
- (f) failure of the Construction Manager to prosecute the Work in accordance with the Contract Documents; or
- (g) a reasonable doubt that the Work can be completed for the unpaid balance of the Guaranteed Maximum Price as defined herein; or
- (h) damage to the Owner, or to another contractor, trade contractor or sub-subcontractor caused by the Construction Manager.

## **ARTICLE 7**

### **EQUIPMENT AND MATERIALS**

**Section 7.01. Materials Provided by Construction Manager.** (a) Unless otherwise provided in the Contract Documents, the Construction Manager shall provide all equipment, materials, labor, services, water and power to the site of the Work, as well as all tools, equipment, lights, transportation, and other facilities necessary for the performance of the Work.

(b) All equipment, machinery, material, and articles incorporated in the Work shall be new and unused, and when not specified in detail in the Contract Documents, the same shall be of the most suitable grade and quality for the purpose intended.

**Section 7.02. Type of Equipment Used.** (a) When any equipment, material or article is referred to by trade name, make or catalog number followed by the words “or equal”, the reference shall be regarded as establishing the minimum standard of



quality and performance required and shall not be construed as limiting competition. The Construction Manager may, with the prior written approval of the Architect, use other equipment, materials or articles which are at least equal in quality and performance to that named in the Contract Documents; provided, however, that in no event shall such approval be construed as a waiver of the right of Owner or the Architect to require equipment, materials or articles which conform to the standard of quality and performance established by reference to the trade name, make or catalog number of the equipment, materials or article for which the substitution has been approved. Any cost of re-design and additional expense resulting from the substitution shall be at the sole expense of the Construction Manager.

(b) The name of the manufacturer, model number and other identifying information respecting the performance, capacity, nature and rating of equipment, material and articles proposed in substitution of those specified in the Contract Documents shall be submitted in sufficient time to avoid delays to the Work. Where items of machinery, equipment, materials and articles are specified by trade name, make or catalog number and not followed by the words "or equal," they shall be furnished as specified and substitution will not be permitted.

**Section 7.03. Non-Conforming Materials.** (a) Equipment, materials or articles installed or used in the Work which do not comply with the requirements of the Contract Documents, and which have not been previously approved in writing by the Program Manager or the Architect shall be installed or used at the risk to the Construction Manager of subsequent rejection by the Owner or the Architect.

(b) The Construction Manager shall be fully and solely responsible for quality control for all materials used in the performance of the Work.

**Section 7.04. Owner Furnishing Equipment or Fixtures.** The Owner may directly furnish any or all of the equipment or fixtures required for the Project. In the event the Owner elects to do so, the Guaranteed Maximum Price shall be reduced by the amount which was to be charged by Construction Manager for such equipment or fixtures as set forth and included in the Contract Documents. A Change Order reducing the Guaranteed Maximum Price for that item of work shall be executed by Owner and Construction Manager to reflect a reduction in the Guaranteed Maximum Price for that item of Work and that the Owner is to furnish. The Construction Manager shall assume responsibility for and be fully responsible for the care, custody and control of all Owner furnished equipment after said equipment arrives on the job site or in any approved offsite storage facility.

## ARTICLE 8

### **AS BUILT DRAWINGS AND DATA**

**Section 8.01. As Built Drawings.** A complete set of drawings shall be maintained by the Construction Manager at the construction site for the purpose of accurately indicating all as built conditions which shall be measured and dimensioned to known permanent

buildings and floor levels. The drawings shall be kept up-to-date and marked each day to show all changes and variations and each entry shall be dated and verified as made. Reproducible as built drawings in electronic format shall be furnished by the Construction Manager on a shared platform during the Project and turned over to Owner upon Substantial Completion. At the completion of the Work and prior to final payment, a complete set of reproducible as built drawings shall be furnished by the Construction Manager to the Architect. If the as built drawings are not kept current each month the Owner shall have no obligation to pay the Construction Manager until the as built drawings are made current.

**Section 8.02. Operation and Maintenance Data.** (a) The Construction Manager shall furnish complete and necessary data for the operation, repair and maintenance of each operating component of the Work (herein the “Data”). The Data shall include prints of shop drawings, “as-installed” conditions, sources of equipment and principal materials, specified tests and performance data, repair and maintenance data, lubrication instructions and recommendations, parts lists, and other catalog data or information required to operate and maintain any part of the Work. Care shall be taken to include all pertinent data and to exclude inapplicable or duplicate information.

(b) Prior to final payment, three (3) complete sets of the Data in electronic form and a hard copy shall be provided to the Architect. The hard copy shall be indexed alphabetically by components grouped together and securely bound in a durable folder or binder that is labeled and indexed to show its contents.

(c) Installation information for all machinery and equipment also shall be kept on the site of the Work during construction, but used or marked prints or data sheets are not to be used in assembling the final maintenance and operating manuals described in Paragraph (b).

(d) Operations and maintenance demonstrations by the manufacturer of all equipment shall be complete in all respects and shall specify the appropriate uses of the equipment.

**Section 8.03. Information from Suppliers.** The Construction Manager shall make it a requirement or condition of purchase from its suppliers of equipment and/or materials (1) to furnish complete and adequate operating and maintenance data pertaining to their equipment, (2) to assign to the Owner any warranty, express or implied, furnished by the manufacturer of the equipment, and (3) to assign to the Owner any customary maintenance or repair service, spare parts supply service, or personnel support service furnished by the manufacturer of the equipment. If the terms and conditions of any warranty, maintenance or repair service, spare parts supply service, or personnel support service furnished by the manufacturer of the equipment are negotiable, they shall be negotiated by the Owner and the manufacturer.

## ARTICLE 9

### TRADE CONTRACTS

**Section 9.01. Definition.** (a) As used in the Contract Documents, a “Trade Contractor” is a person or organization that has a contract with the Construction Manager to perform any portion of the Work or to furnish any equipment or materials to the Project.

(b) As used in the Contract Documents, a “sub-subcontractor” is a person or organization that has a direct or indirect contract with the Trade Contractor to perform any portion of the Work, or to furnish any equipment or materials to the Project.

**Section 9.02. No Contractual Relationship with Owner.** Nothing contained in the Contract Documents or otherwise shall create any contractual relationship between the Owner and any trade contractor or sub-subcontractor, and no trade contract or sub-subcontract shall relieve the Construction Manager of its responsibilities and obligations should any trade contractor or sub-subcontractor fail to perform its work in a satisfactory manner. The Construction Manager agrees to be as fully responsible to the Owner for the acts and omissions of its trade contractors and their sub-subcontractors and of persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by it.

**Section 9.03. Award of Trade Contracts.** (a) The Construction Manager, shall require bids to be submitted to Program Manager and the Construction Manager concurrently. The Owner shall notify the Construction Manager in writing if, after due investigation, it objects to any trade contractor, sub-subcontractor or major material supplier in which event the bid of such trade contractor, sub-subcontractor or major material supplier shall not be considered, and the Guaranteed Maximum Price shall be adjusted as provided for in Section 9.04.

(b) The Construction Manager shall not contract with any trade contractor or material supplier (nor shall they contract with any sub-subcontractor) or any person or organization (including those who are to furnish material or equipment) proposed for portions of the Work designated in the Contract Documents or, if none is so designated, with any trade contractor proposed for principal portions of the Work who has not been previously approved in writing by the Program Manager.

(c) If the Owner refuses to accept any trade contractor or material supplier (or sub-subcontractor) or person or organization submitted by the Construction Manager, the Construction Manager shall submit an acceptable substitute.

**Section 9.04. Change of Trade Contractors.** The Owner may require a change of any trade contractor. The Guaranteed Maximum Price shall be adjusted accordingly due to the Owner requiring a change of any proposed trade contractor, sub-subcontractor or

material supplier, unless the change was required because the Trade Contractor, sub-subcontractor or material supplier was unable to perform its work according to the Contract Documents.

**Section 9.05. No Substitution of Trade Contractors.** The Construction Manager shall not make any substitution for any trade contractor nor allow the substitution of any sub-subcontractor who has been accepted by the Owner, unless the substitution is required and previously approved by the Owner. Acceptable reasons for substitution (other than where required by the Owner) shall be limited to the following:

- (a) Inability of the trade contractor or sub-subcontractor to provide bonds or insurance, if required;
- (b) Failure of the trade contractor or sub-subcontractor to perform according to approved schedules or other provisions of the Contract Documents; or
- (c) Other reasons which would reasonably render the trade contractor or sub-subcontractor unable to perform its work according to the Contract Documents as evidenced in writing by the Construction Manager.

**Section 9.06. Trade Contract Terms.** All portions of the Work performed by a trade contractor or sub-subcontractor shall be pursuant to an appropriate agreement between the Construction Manager and the trade contractor (and where appropriate between trade contractors and sub-subcontractors) which shall contain provisions that:

- (a) Preserve and protect the rights of the Owner under the Contract Documents with respect to the portion of the Work to be performed under the trade contract (or sub-subcontract) so that the trade contracting will not prejudice such rights;
- (b) Require that such work be performed in accordance with the requirements of the Contract Documents;
- (c) Require submission to the Construction Manager of applications for payment under each trade contract to which the Construction Manager is a party;
- (d) Require that all requests for additional compensation, extensions of time or otherwise with respect to trade contracted portions of the Work shall be submitted to the Construction Manager (via any trade contractor or sub-subcontractor where appropriate) in sufficient time so that the Construction Manager may comply in the manner provided in the Contract Documents for like requests by the Construction Manager upon the Owner; and
- (e) Obligate each trade contractor or sub-subcontractor specifically to consent to the provisions of Sections 5.02, 5.03, 5.04, 14.01, and 22.02.

## ARTICLE 10

### **PAYMENT TO TRADE CONTRACTORS FROM CONSTRUCTION MANAGER**

**Section 10.01. Payments to Trade Contractors from the Construction Manager.** The Construction Manager shall pay each trade contractor an amount equal to the percentage of completion allowed to the Construction Manager on account of the work of such trade contractor, less the percentage retained from payments to the Construction Manager. The Construction Manager shall also require each trade contractor to make similar payments to its sub-subcontractors.

**Section 10.02. Withholding of Payment by the Owner.** Subject to the terms of any applicable trade contract, if the Owner withholds monies for any cause which is the fault of the Construction Manager and not the fault of a particular trade contractor, the Construction Manager shall pay that trade contractor on demand, made at any time after the progress payment by the Owner should otherwise have been issued, for its work to the extent completed, less the retained percentage. Notwithstanding this Section 10.02, Construction Manager may withhold funds from any trade contractor that is not performing its work in accordance with the Contract Documents.

**Section 10.03. Independent Obligation to Pay.** The obligation of the Construction Manager to pay its trade contractors (and their obligation to pay sub-subcontractors) is an independent obligation from the obligation of the Owner to make payment to the Construction Manager. The Owner shall have no obligation to pay or to see to the payment of any monies to any trade contractor or sub-subcontractor. The provisions of this Agreement are solely intended for the benefit of the Owner and Construction Manager and not for any other person. Nothing in this Agreement is intended to create any third-party rights.

## ARTICLE 11

### **CHANGES**

**Section 11.01. Changes in the Work.** (a) The Owner, without invalidating the Agreement, may order extra work or make changes by altering, adding to or deducting from the Work by executing a Change Order, a Construction Change Directive in a form provided by the Owner. The Change Order when signed by the Owner and Construction Manager shall state their agreement on the change in the Work, and the amount of adjustment in the Guaranteed Maximum Price, Substantial or Final Completion Date, if any, and shall be executed by the Owner and the Construction Manager prior to the Work that is the subject of the Change Order being performed. In the event the Owner, Program Manager and Construction Manager cannot agree on the terms of a Change Order, or if the required work is a Change Order, the Owner may issue a Construction Change Directive as provided in Section 11.02. All work performed pursuant to a valid Change Order or Construction Change Directive shall be performed under the conditions of this Agreement and the Contract Documents. The Owner shall have authority to make changes in the Work not involving extra cost, including any changes made

necessary by an Architect's Supplemental Instruction (ASI), and not inconsistent with the purposes of the Work, but otherwise, no extra Work or change in the Work shall be made unless pursuant to a Change Order or a Construction Change Directive and no claim by Construction Manager for additional cost or fee or any extension of the Substantial Completion Date shall be valid unless so ordered in a written Change Order or a Construction Change Directive.

**Section 11.02. Construction Change Directive.** (a) A Construction Change Directive is a written order prepared by the Program Manager and signed by the Owner and Architect, directing a change in the Work or directing either the Construction Manager to proceed with work that the Construction Manager and Owner do not agree as to whether such work is a change in the Work, and stating a proposed basis for adjustment, if any, in the Guaranteed Maximum Price or the Substantial Completion Date, or both. The Owner may by Construction Change Directive, without invalidating this Agreement, order changes in the Work consisting of additions, deletions or other revisions.

(b) A Construction Change Directive shall be used in the absence of an agreement on the terms of a Change Order or whether or not the work described in the Construction Change Directive is changed work.

(c) If the Construction Change Directive provides for an adjustment to the Guaranteed Maximum Price, the adjustment shall be based on one of the following methods:

- (1) Mutual acceptance of a Guaranteed Maximum Price 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; and
- (4) As provided in subparagraph (f).

(d) Upon receipt of a Construction Change Directive, the Construction Manager shall promptly proceed with the Work involved and advise the Program Manager of the Construction Manager's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Guaranteed Maximum Price, or the Substantial Completion Date.

(e) A Construction Change Directive signed by the Construction Manager indicates the agreement of the Construction Manager therewith, including any appropriate adjustment in Guaranteed Maximum Price and the Substantial

Completion Date. Such agreement shall be effective immediately and shall be recorded as a Change Order.

(f) If the Construction Manager does not respond promptly or disagrees with the method for adjustment in the Guaranteed Maximum Price, the method and the adjustment, if any adjustment is due, shall be determined on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase or decrease in the Guaranteed Maximum Price, a reasonable allowance for overhead and the Construction Manager's Fee of \_\_\_\_%. The Construction Manager 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 purpose of this paragraph shall be limited to the following:

- (1) Actual costs for labor, including social security, old age and unemployment insurance, fringe benefits required by agreement and workers' or workmen's compensation insurance;
- (2) Actual costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- (3) The actual costs of trade contractors to perform the Change Directive work;
- (4) Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Construction Manager or others;
- (5) Actual costs of premiums for all bonds and insurance, permit fees and sales, use or similar taxes related to the Work; and
- (6) Additional actual costs of supervision and field office personnel directly attributable to the change.

(g) Pending final determination of cost to the Owner, amounts not in dispute may be included in Certificates and Applications for Payment. The amount of credit to be allowed by the Construction Manager to the Owner for a deletion of work shall be the sum of the costs the Construction Manager would have incurred to perform the deleted work and a reasonable amount for profit and overhead on the deleted work. When both additions and credits covering related Work or substitutions are involved in a change, the Guaranteed Maximum Price shall be adjusted by the net costs of the change and an amount for overhead and profit on the net increase or decrease with respect to that change.

**Section 11.03. Change Order Procedure.** Upon receipt of a request from the Owner for extra Work or changes in the Work, the Construction Manager shall furnish to the Owner and the Program Manager a statement setting forth in detail the proposal of the Construction Manager for performing the extra Work or changes and the effect of the extra Work or changes, if any, in the Guaranteed Maximum Price and the Substantial

Completion Date attributable to the extra Work or changes set forth in the request of the Owner. If the Owner approves in writing the proposal of the Construction Manager, a Change Order in the form provided by the Program Manager shall be executed by the parties and the Guaranteed Maximum Price and the Substantial Completion Date shall be adjusted accordingly.

**Section 11.04. Changes in the Guaranteed Maximum Price.**

Absent an agreed-upon lump sum price for a Change Order, the provisions of this Section shall govern increases or decreases in the GMP.

(a) Increases to Scope: The increase in the Guaranteed Maximum Price attributable to a Change Order performed by the Construction Manager or any of its trade contractors shall not exceed the sum of the following:

- (1) The actual labor cost to the Construction Manager to perform the Change Order, including insurance and taxes;
- (2) The actual cost of materials, supplies, products, equipment and rental equipment used in performing the Change Order, including sales taxes;
- (3) The actual cost of trade contractors to perform the Change Order, including insurance and taxes;
- (4) The actual cost of additional insurance and bonds including trade contractor bonds, if applicable; and
- (5) The Construction Manager shall not charge a fee for any Change Order that totals less than \$500,000.00. For Change Orders that exceed \$500,000.00, the Construction Manager's fee shall be 15% of the amount of the Change Order. No fee shall be charged by the Construction Manager on any General Conditions costs within the Change Order.

The Construction Manager shall, as a part of its trade contract agreement, require that no more than 10% of the total of subparagraph 3 be charged by a trade contractor for profit and overhead on any Change Order Work performed by the trade contractor. In the event change order work is performed by a second or lower tier trade contractor, profit and overhead on such work shall be limited to a total of 20%;

- (6) The actual cost of increased General Conditions caused by the Change Order.



(b) Decreases in the Scope: The decrease in the Guaranteed Maximum Price attributable to a Change Order deleting a portion of the scope of Work shall equal the sum of the following:

- (1) The actual labor cost that the Construction Manager would have incurred to perform the scope of Work deleted in the Change Order including the anticipated cost of overhead, insurance and taxes;
- (2) The actual cost of materials, supplies, products, equipment and rental equipment that the Construction Manager would have used in performing the scope of Work deleted in the Change Order, including sales taxes;
- (3) The actual cost of trade contractors and sub-subcontractors that the Construction Manager would have incurred in performing the scope of Work deleted in the Change Order, including overhead, profit, insurance and taxes;
- (4) The actual credit for the cost associated with the lower limits required for bonds including trade contractor and sub-subcontractor bonds, if applicable, as a result of the reduction in the scope of the Work;
- (5) An amount of 10% for profit and overhead for the deleted Work.

**Section 11.05. Unconditional Obligation to Proceed.** Notwithstanding anything herein to the contrary, the Construction Manager will proceed with the Work so as to complete the Work on or before the Substantial Completion Date even if it has a dispute with the Owner concerning a Change Order, a Construction Change Directive or any extension of time which is or could be due to the Construction Manager pursuant to a Change Order, a Construction Change Directive or otherwise.

## ARTICLE 12

### **THE UNDERSTANDING OF THE CONSTRUCTION MANAGER**

**Section 12.01. Examination of Work Site.** The Construction Manager acknowledges that prior to the submission of the Guaranteed Maximum Price that it has, by careful examination, satisfied itself as to the nature and location of the Work, the conformation of the ground conditions, the character, quality and quantity of the materials, equipment and facilities needed preliminary to and during the prosecution of the Work, the general and local conditions and all other matters which can in any way affect the Work.

**Section 12.02. Sufficiency of Contract Documents.** (a) The Construction Manager acknowledges that the Contract Documents are sufficient to enable it to determine the Guaranteed Maximum Price of all of the Work and that the Work can be completed in accordance with the Contract Documents for the Guaranteed Maximum Price.

(b) The Construction Manager acknowledges that any observed errors, discrepancies, omissions, ambiguities or conflicts in the Contract Documents will be brought to the attention of the Architect and the Program Manager, as set forth in Section 2.03 of this Agreement, and in a timely manner in order to insure substantial completion of the Work by the Substantial Completion Date. The Construction Manager acknowledges that it is responsible for laying out the entire Project prior to beginning the Work. In addition, the Construction Manager acknowledges that the Owner has not made, nor shall it be deemed to have made any warranties, guarantees or representations of any kind whatsoever regarding the sufficiency of the Contract Documents or the site conditions, relating to the Work.

(c) The Owner shall not be responsible for any damages resulting from any errors, inconsistencies or omissions in the Contract Documents which were discovered or observed or reasonably should have been discovered or observed by Construction Manager but were not noted by the Construction Manager in accordance with Paragraph (b) and Section 2.03.

**Section 12.03. No Oral Modification.** No oral agreement or conversation with any officer, agent or employee of the Architect, Program Manager or the Owner or their representatives, either before or after the execution of this Agreement shall affect or modify any of the terms or obligations contained in this Agreement or the Contract Documents.

## ARTICLE 13

### **THE REPRESENTATIVE OF THE OWNER**

**Section 13.01. The Representative of the Owner.** \_\_\_\_\_ will be the Owner's Representative during construction and until final payment is made. The Owner shall have full authority to stop the Work whenever in his best judgment, such stoppage may be necessary to insure the proper execution of the Work. The Owner shall have authority to reject any Work and materials which do not conform to the Contract Documents, and to decide questions which arise during the execution of the Work. The Owner shall have the right to replace the Representative of the Owner at any time with or without cause.

**Section 13.02. Decisions of the Architect.** The Architect shall, within a reasonable time after presentation to him, make decisions in writing on all matters relating to the execution of the Work or the interpretation of the Contract Documents.

## ARTICLE 14

### **THE RIGHT OF THE OWNER TO INSPECT AND AUDIT**

**Section 14.01. Right to Audit.** The Construction Manager shall keep full and accurate records of all costs incurred and items billed in connection with any Work, which records shall be open to audit by the Owner, or any authorized representative for the Owner, during the course of the Project and until four (4) years after the final payment by the Owner. In addition, the Construction Manager shall make it a condition of all trade

contracts and sub-subcontracts entered into in furtherance of the Work that all trade contractors and sub-subcontractors will keep accurate records of costs incurred and items billed in connection with the trade contract (or sub-subcontract) and that such records shall be open to audit by the Owner, or any authorized representative of the Owner, during the course of the Work of the trade contractor (or sub-subcontractor) and until four (4) years after final payment by the Owner to the Construction Manager.

(a) In preparing Guaranteed Maximum Price quotes for change order work, the Construction Manager shall prepare a cost breakdown that provides sufficient detail for the Owner or Program Manager to determine that the quoted costs are reasonable and allowable and to verify that markups are properly calculated according to contract terms.

(b) The Construction Manager shall keep full and accurate records of all costs incurred in connection with all change order work. Such supporting evidence shall be subject to audit by Owner or Program Manager to the extent necessary to permit adequate evaluation and verification of the costs.

(c) The Construction Manager shall require all trade contractors, sub-subcontractors, insurance agents and material suppliers to comply with the provisions of this article.

**Section 14.02. Review of Trade Contracts.** The Construction Manager shall provide the Program Manager with an executed copy of all trade contracts, sub-subcontracts and purchase orders entered into in furtherance of the Work, within thirty (30) days after the execution by Construction Manager of any and all such documents.

## ARTICLE 15

### **SEPARATE CONTRACTS**

**Section 15.01. The Right of the Owner to Award Separate Contracts.** The Owner reserves the right to award other contracts in connection with work at or in the vicinity of the Work and the Construction Manager agrees to cooperate fully and not to unreasonably interfere with the work of such other contractors.

**Section 15.02. Cooperation.** The Construction Manager shall afford the other contractors of Owner the opportunity for the introduction and storage of their materials and equipment and the execution of their work. The Construction Manager shall properly connect and coordinate the Work with work of any other separate contractors of the Owner.

**Section 15.03. Inspection of Work of Other Contractors.** If any part of the Work depends for proper execution or result upon the work of another contractor of Owner, the Construction Manager shall inspect and promptly report to the Program Manager any discrepancies or defects discovered in such work that render it unsuitable for such proper execution or results. Failure of the Construction Manager to so inspect and report shall

constitute an acceptance of the Work of the other contractor as fit and proper to receive the Work.

**Section 15.04. Responsibility for Damage.** Should the Construction Manager cause damage to the work or property of any other contractor of the Owner, including but not limited to, delay, disruption, suspension of work and/or acceleration damages, the Construction Manager shall settle with such other contractor if the other contractor will so settle. If such other contractor sues the Owner on account of any damage alleged to have been so sustained, the Owner shall notify the Construction Manager who shall defend such proceedings at the expense of the Construction Manager, or provide counsel of Owner's choice for Owner at the expense of Construction Manager, and if any judgment or award against the Owner results, the Construction Manager shall pay or satisfy it and shall reimburse the Owner for all attorney's fees and litigation costs which the Owner has incurred.

## ARTICLE 16

### **WARRANTIES OF THE CONSTRUCTION MANAGER**

**Section 16.01. Warranty of Title.** The Construction Manager warrants and guarantees that title to all Work, materials and equipment covered by an Application and Certificate for Payment, whether incorporated in the Work or not, will pass to the Owner, free and clear of all liens, claims, security interests or encumbrances (hereinafter "Liens") and that none of the Work, materials or equipment covered by an Application and Certificate for Payment will have been acquired by the Construction Manager, or by any other person performing any part of the Work or furnishing materials and equipment for the Work, subject to an agreement under which a Lien is retained by the seller or supplier.

**Section 16.02. Special Warranties.** When special guarantees or warranties are required by the Contract Documents for specific parts of the Work, the Construction Manager shall procure certified copies of such guarantees or warranties, countersign them and submit them to the Program Manager in triplicate. Delivery of such guarantees or warranties will not relieve the Construction Manager from any obligations assumed under any provision of this Agreement or the Contract Documents.

**Section 16.03. Assignment of Warranties.** The Construction Manager hereby assigns to the Owner any and all existing assignable warranties, service life policies and patent indemnities of manufacturers of materials, equipment or items incorporated in the Work. Upon the request of the Owner or the Program Manager, the Construction Manager shall give the Owner assistance in enforcing the rights of the Owner arising under such warranties, service life policies and patent indemnities. At the request of the Owner or the Program Manager, the Construction Manager shall give notice (with copies to the Owner) to any such manufacturers of the assignment of such warranties, service life policies and patent indemnities.

**Section 16.04. General Warranty and Correction of Work.** (a) In addition to any special guarantees or warranties contained in the Contract Documents, the Construction Manager warrants to the Owner that all materials and equipment

furnished in performance of the Work will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective.

(b) The Construction Manager shall promptly correct all defective work to comply with the Contract Documents whether observed before or after the Substantial Completion Date and whether or not fabricated, installed or completed. The Construction Manager shall bear all costs of correcting such defective Work.

(c) If, within one (1) year after the Substantial Completion Date, or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee or warranty required by the Contract Documents, any of the Work is found to be defective and not in accordance with the Contract Documents, the Construction Manager shall correct it promptly after receipt of a written notice from the Owner or the Program Manager to do so.

(d) All defective or non-conforming Work shall be removed from the site of the Work if necessary, and the Work shall be corrected to comply with the Contract Documents without cost to the Owner. The Construction Manager also shall bear the cost of making good all work of other contractors destroyed or damaged by removal or correction of the defective Work of Construction Manager.

(e) If the Construction Manager fails to timely and properly correct defective Work, the Owner may correct it and hold the Construction Manager liable for all costs, expenses and damages, including attorney's fees and litigation costs incurred by Owner in correcting it.

(f) In addition to the foregoing warranty, a warranty period of one (1) year shall apply under the same terms and conditions as the original warranty, to any work, supplied in correction of the defective work under warranty pursuant to the provisions of this Section 16.04 and the Construction Manager shall assign to the Owner any warranties, including extended warranties, which are available in connection with the performance of such correction of defective Work. The warranty period shall commence on the date the Owner accepts the corrective Work of the Construction Manager.

## **ARTICLE 17**

### **RIGHT OF THE OWNER TO DO WORK**

**Section 17.01. Right of the Owner to do Work.** If the Construction Manager fails to prosecute the Work properly or fails to do anything required by the Contract Documents, and the Owner does not receive assurances from the Construction Manager of due performance reasonably satisfactory to the Owner within seven (7) days after written demand is made, then the Owner may, without prejudice to any other remedy it may have under this Agreement or at law or in equity, make good any deficiencies in the Work, including but not limited to, supplementing the forces of the Construction Manager and

deduct all costs of doing so from the payment then due and any payment thereafter due the Construction Manager. The Owner shall not be required to give multiple notices to the Construction Manager in order to exercise its rights under this section.

**Section 17.02. Deduction for Uncorrected Work.** If the Owner deems it inexpedient to correct deficiencies in the Work pursuant to Section 17.01, the Owner may deduct the reasonable cost of correcting the deficiencies from the payment then due or any payment thereafter due to the Construction Manager, but the making of such a deduction shall in no way be deemed an election of remedies by the Owner.

**Section 17.03. Correction of Work before Final Payment.** (a) The Construction Manager shall promptly remove from the site of the Work all materials, equipment or other items rejected by the Architect as failing to conform to the Contract Documents, whether incorporated in the Work or not, and the Construction Manager shall promptly replace and re-execute its original work to comply with the Contract Documents without expense to the Owner. In addition, the Construction Manager shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

(b) If the Construction Manager does not remove rejected material, equipment or other items within a reasonable time (as fixed by written notice from the Owner or the Program Manager) the Owner may remove such items and store them at the expense of the Construction Manager, or dispose of such material, equipment or other items at the sole discretion of the Owner. If the Construction Manager does not pay the expense of such removal or storage within ten (10) days, the Owner may, upon ten (10) days written notice, sell such items at auction or at private sale and shall account for the net proceeds of such sale, after deducting all the costs and expenses of removal that should have been borne by the Construction Manager.

## **ARTICLE 18**

### **INSURANCE**

**Section 18.01. Liability Insurance.** Prior to the commencement of any operations by or on behalf of the Construction Manager relating to the Project, and with respect to any and all such operations, the Construction Manager shall procure:

- (a) Comprehensive Automobile Liability Insurance including:
  - (1) Coverage for Owner, the Program Manager, the Architect, their officers, directors and employees as additional insureds.
  - (2) Coverage to apply to all liability arising out of the ownership or use of any automobile.

This insurance shall be for an amount not less than \$ 1,000,000 combined single limit liability each accident.

(b) Workers' Compensation and Employer's Liability Insurance including:

- (1) Coverage for claims for damages arising out of bodily injury, occupational sickness or disease or death of Construction Manager's employees under any applicable workers' compensation statute or any other applicable employers' liability law.

This insurance shall include employers' liability limits of not less than \$1,000,000 bodily injury each accident, \$1,000,000 bodily injury by disease each employee and \$1,000,000 bodily injury by disease in the aggregate:

(c) Primary Commercial General Liability Coverage (Occurrence Basis) and Excess Liability or Umbrella Liability including:

- (1) Coverage for Owner and the Architect, their officers, directors and employees as additional insureds.
- (2) Premises Operations, Products – Completed Operations Liability, Personal, Advertising Liability, Damage to Premises rented to you, Medical Expenses, Contractual Liability.

The combination of the Comprehensive General Liability policy limit and the excess or umbrella policy limit must be no less than \$100,000,000 aggregate, \$2,000,000 in the General Aggregate and \$2,000,000 in Products-Completed Operations. Any combination of primary and excess or umbrella limits totaling \$100,000,000 or greater is acceptable.

**Section 18.02. Construction Manager's Insurance Primary:** Any coverage applicable to Owner under Construction Manager's insurance policies shall be primary and non-contributing with any insurance maintained by Owner in its name and on its behalf. Copies of endorsements to Construction Manager's policies shall be provided to Owner.

**Section 18.03. Insurer Qualifications and Cancellation or Non-renewal:** All insurance obtained by the Construction Manager pursuant to this Agreement shall be written by insurance companies licensed to do business in Georgia and acceptable to Owner. All such insurance shall be in form and substance satisfactory to the Owner and shall provide that it will not be subject to cancellation or non-renewal except after thirty (30) days prior written notice to the Owner, Construction Manager or Architect

**Section 18.04. Insurance Certificates:** The Construction Manager shall furnish to the Owner and the Architect prior to commencement of the Work certificates of insurance reflecting policies in force and shall also provide certificates evidencing all renewals of such policies.

**Section 18.05. Insurance for Project Property While outside the United States and Canada.** If any project property is in transit or is located outside the continental United States or

Canada for any reason, Construction Manager shall arrange to insure such property for its full replacement value separate from the builder's risk insurance described in this Article.

**Section 18.06. Mutual Waiver of Subrogation and Waiver of Rights of Recovery.**

Construction Manager and Owner waive all rights of subrogation and recovery against each other to the extent loss or damage is insured under the Construction Manager's or the Owner's policies. The Construction Manager will require all subcontractors to similarly waive their rights of subrogation and recovery with respect to their work on the Project.

**ARTICLE 19**

**SURETY BONDS AND SUPPLEMENTAL DEFAULT INSURANCE**

**Section 19.01. Surety Bonds Required.** The Construction Manager shall furnish and keep in force throughout the performance of the Work a separate performance bond and a separate labor and material payment bond, each in the amount of the Guaranteed Maximum Price (as the same may be modified from time to time) conditioned upon the faithful performance of the Work by the Construction Manager and payment of all obligations arising in connection with the Work by the Construction Manager. Said bonds shall also guarantee to the Owner that the Work shall be free of all liens upon the property of the Owner. The bonds shall name the Owner as obligee and shall be in such form and with such sureties as the Owner may approve prior to commencement of the Work. The Construction Manager shall maintain in full force and effect its current Subcontractor Default Insurance (SDI) policy throughout the design and construction of the Project. The Construction Manager shall cause a financial interest endorsement in favor of the Owner to be issued to its Subcontractor Default policy. The Construction Manager shall provide a payment and performance bond for any self-performed work approved by the Owner.

**ARTICLE 20**

**INDEMNIFICATION**

**Section 20.01. Indemnification of the Construction Manager.** (a) To the fullest extent permitted by law, Construction Manager, on behalf of itself, its subcontractors, sub-subcontractors, their agents, their employees or any entity or person for which the Construction Manager is or may be responsible (all of said parties are herein sometimes collectively referred to as the "Indemnitors") shall fully indemnify, defend, and hold the Owner, its agents, employees, officers, directors, partners and related entities (all of said parties herein collectively referred to as the "Indemnitees") harmless from and against all liability, damage, loss, claims, demands, suits, actions, judgment, and expenses of any nature whatsoever, including, but not limited to reasonable fees and expenses of attorneys, experts, consultants, mediators, arbitrators, and all other costs which arise out of, or are connected with, or are alleged to arise out of or be related to: (i) any negligent act, any wrongful act, or any error or omission by any Indemnitor in the performance of the Agreement; or (ii) the failure of any Indemnitor to comply with the laws, statutes, ordinances, or regulations of any governmental or quasi-governmental authority; or (iii) the material breach of any term or condition of this Agreement by any of the Indemnitors; (iv) claims for payment by any immediate or remote subcontractor, supplier, or any other party for work, labor, services, material, and/or equipment furnished to the Project; or (v) injury to



Construction Manager's employee, agent, subcontractor, or representative while performing the Work related to this Agreement even if such Work is being performed off the site of the work, but only to the extent caused by Indemnitor's intentional or negligent act, error or omission. Without limiting the generality of the foregoing, the indemnity hereinabove set forth shall include all liability, damages, loss, claims, demands, suits and actions on account of personal injury, death or property loss to any third party, any Indemnitee, any of Indemnitee's employees, agents, licensees or invitees relating to the Work and which result from the intentional or negligent act, error or omission of any Indemnitor. The indemnity set forth herein shall survive any termination of this Agreement.

(b) Indemnitors shall, at their own expense, cost, and risk, defend any and all claims, demands, and suits defined in this Agreement that may be brought or instituted against any of the Indemnitees by any third party, including but not limited to any governmental, state, or local agency, or any employee or contractor of any of the Indemnitors, and any party for whose acts they may be responsible. Indemnitors shall reimburse the Indemnitees for any and all legal costs and related expenses incurred by any of them in connection herewith or in enforcing the indemnity granted in this Section. The Indemnitees specifically reserve the right to select counsel to oversee the defense of any such claim.

(c) Indemnitors' obligation of indemnification shall (i) survive termination of this Agreement; (ii) extends to claims occurring after termination of this Agreement or completion of the Project; and (iii) not be limited in any manner by the insurance coverage under this Agreement.

**Section 20.02. Labor Indemnity.** The Construction Manager shall indemnify, defend and hold harmless the Owner, its agents, employees, officers, directors, partners and related entities, from any and all administrative and judicial actions (including reasonable attorney's fees related to any such action), incurred by the Owner in connection with any labor related activity arising from the performance of the Work. As used in this Agreement, "labor related activity" includes but is not limited to, strikes, walk-outs, informational or organizational picketing, use of placards, distribution of hand-outs, leaflets at or in the vicinity of any facility where the Owner conducts business. The Program Manager shall advise the Construction Manager if any labor related activity occurs and the Construction Manager shall arrange for the legal representation necessary to protect the Owner provided such representation is previously approved by Owner.

**Section 20.03. Royalties and Patents.** The Construction Manager shall pay all royalties and license fees in any way relating to the Work, shall defend all suits or claims for infringement of any patent or copyrights, and shall indemnify and hold the Owner, its agents, officers, directors, partners and related entities, harmless from loss on account of such suit or claim, unless such infringement results from the use of an item specifically called for under the Contract Documents.

**Section 20.04. Attorneys' Fees.** In the event it becomes necessary for Owner to employ an attorney to enforce any provision of this Agreement or to defend against any claim or litigation initiated by the Construction Manager, then the Construction Manager shall be liable for all attorney's fees and litigation expenses of Owner.

## ARTICLE 21

### **RIGHT TO OCCUPY BY OWNER**

**Section 21.01. Early Occupancy by Owner.** The Owner has the right to occupy or use ahead of schedule, at no additional cost to Owner, all or any substantially completed or partially completed portion of the Work when such occupancy and use are in its best interest, notwithstanding the time of the completion for all of the Work. Maintenance of occupied portion will remain the Construction Manager's responsibility.

**Section 21.02. Corrections after Occupancy.** After the Owner has taken occupancy of all or any portion of the Work, the Construction Manager shall not disrupt the use and occupancy of the Owner to make corrections in the Work but shall, at the discretion of the Owner, make such corrections at the expense of Construction Manager after normal working hours.

## ARTICLE 22

### **DEFAULT; RIGHT TO TERMINATE OF OWNER**

**Section 22.01. Event of Default.** (a) For the purposes of this Agreement, an event of default shall be if:

- (1) At any time there shall be filed by or against the Construction Manager in any court a petition in bankruptcy or insolvency or for reorganization of Construction Manager or for the appointment of a receiver or trustee of all or a portion of the property of the Construction Manager, and within twenty (20) days from the filing date the Construction Manager fails to secure a discharge; or
- (2) The Construction Manager makes an assignment for the benefit of creditors or petitions for or enters into an agreement or arrangement with its creditors; or
- (3) The Construction Manager fails to timely and properly prosecute the Work, or fails to complete the Work entirely on or before any date established for partial, substantial or final completion; or
- (4) The Construction Manager fails to make prompt payment to its trade contractors or for materials or labor used in the Work; or
- (5) The Construction Manager fails to supply sufficient labor, material and/or equipment so as to complete the Work timely and in accordance with the Contract Documents including, but not limited to the progress schedule; or
- (6) The Construction Manager performs defective Work and fails to promptly and properly correct such defective Work; or

- (7) Without limitation, the Construction Manager fails to properly and timely perform any provision of this Agreement or the Contract Documents.

(b) Upon the occurrence of an Event of Default, the Owner may, after seven (7) days written notice to the Construction Manager, and without prejudice to any other remedy the Owner may have, terminate this Agreement and take possession of all or some of the materials, tools, equipment and appliances of the Construction Manager, and complete the Work by such means as the Owner deems appropriate. In such case, the Construction Manager shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Guaranteed Maximum Price shall exceed the aggregate of: (1) the expense of the Owner of completing the Work, including compensation for additional managerial, architectural and administrative services, and (2) the losses and damages of Owner, including reasonable attorney's fees and litigation expense because of the default of Construction Manager, such excess shall be paid to the Construction Manager. If the expense of completing the Work and the losses and damages of Owner, including reasonable attorney's fees and litigation expenses, shall exceed the unpaid balance of the Guaranteed Maximum Price, the Construction Manager and its surety shall pay the difference to the Owner promptly on demand.

**Section 22.02. Termination without Cause.** The Owner may terminate this Agreement without cause by giving fourteen (14) days' prior written notice to the Construction Manager. In such event, the Owner will pay the Construction Manager for that portion of the Cost of the Work and earned fee incurred through the date of termination, less the aggregate of previous payments, allocable to the Work completed by the Construction Manager as of the date of termination. The Owner also will reimburse the Construction Manager for all documented costs, including reasonable cancellation charges, but not including any loss of its own profits, or profits from its trade contractors, suppliers, vendors and materialmen, necessarily incurred by the Construction Manager for organizing and carrying out the stoppage of the Work. The Owner will not be responsible to reimburse the Construction Manager for any of its continuing contractual commitments to trade contractors, suppliers, vendors, materialmen or others or for penalties or damages for canceling such contractual commitments, and the Construction Manager shall make all of its trade contracts and other commitments subject to this provision. Notwithstanding anything herein to the contrary, a termination for convenience shall not excuse the Construction Manager or its surety for the cost to correct defective work performed by the Construction Manager prior to the termination for convenience. Such obligation shall survive any termination for convenience under this Agreement.

**Section 22.03. Suspension by the Owner for Convenience.** (a) The Owner may order the Construction Manager in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine (herein referred to as "Suspension").

(b) Provided the Suspension lasts for more than forty-five (45) days, an adjustment to the Guaranteed Maximum Price ("Adjustment") shall be made as set

forth in Paragraph (c) of this Section 22.03. The date of substantial completion shall be extended by written Change Order to the extent that substantial completion is actually delayed by this Suspension. 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 Construction Manager is in full or in part responsible; or
- (2) That an equitable adjustment is made or denied under another provision of this Agreement.

(c) The amount of the Construction Manager's compensation for a Suspension pursuant to this section shall be limited to any properly documented costs of maintaining personnel and equipment in the field provided such costs are pre-approved by the Owner in writing. The Owner shall not be liable at any time for home office overhead or consequential damages. At the Owner's option, the Construction Manager may be ordered to demobilize its forces because the Project is suspended. In such event, the Owner will reimburse the Construction Manager for the reasonable cost of demobilization and remobilization.

**Section 22.04. Assignment of Trade Contracts.** In the event of termination by the Owner pursuant to this Article 22, the Owner may require the Construction Manager to promptly assign to it all or some trade contracts, materials, tools, equipment to be installed under this Agreement, or rental agreements, and any other commitments which the Owner, in its sole discretion, chooses to take by assignment. In such event, the Construction Manager shall promptly execute and deliver to the Owner written assignments of such commitments.

## **ARTICLE 23**

### **HAZARDOUS MATERIALS COVENANTS**

**Section 23.01. Definitions.** The following terms when used in this Agreement have the following meanings:

“Environmental Law” means any applicable federal, state, local or other governmental law (including common law) or legal requirement governing or related to (a) the environment, (b) health and safety, (c) releases or threatened release of Materials of Environmental Concern including investigations, monitoring and abatement of such release, and (d) the manufacture, handling, transport, use, treatment, storage or disposal of, or any exposure to, Materials of Environmental Concern or materials containing Materials of Environmental Concern.

“Materials of Environmental Concern” means (a) any petroleum or petroleum products, radioactive materials, agricultural chemical, cement, coal ash, lime, fertilizer, asbestos in any form that is or could be fireable, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls (“PCBs”); (b) and other chemicals, materials or substances which are defined

as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous substances,” “restricted hazardous wastes,” “toxic substances” or “toxic pollutants” under, or are regulated as such by Environmental Laws, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §§ 1801 et. seq.); the Resources Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.); the Toxic Substances Control Act, as amended (15 U.S.C. §§2601 et seq.); the Clean Air Act, as amended (42 U.S.C. §§ 7401 et seq.); the Federal Water Pollution Control Act, as amended (33 U.S.C. §§1251 et seq.); the Safe Drinking Water Act (42 U.S.C. §§3808 et seq.) or in the regulations promulgated pursuant to any of said laws and any similar federal, state or local laws, ordinances or regulations implementing such laws; and (c) any substance or materials which now is known to constitute a threat to health, safety, property, or the environment or which has been determined by any governmental authority to be capable of posing a risk of injury to health, safety, property or the environment or exposure to which is prohibited, limited or regulated by an Environmental Law or governmental authority, including all of those materials, wastes and substances designated as hazardous or toxic by any governmental authority.

“Release” means any release or threatened release as defined under any Environmental Law to the soil, air, surface water, ground water, building or facility whether on or off-site of the Project Site.

### **Section 23.02. Environmental Covenants.**

(a) The Construction Manager hereby represents and warrants to and for the benefit of Owner that the Construction Manager shall (i) at all times comply with, or cause to be complied with, any Environmental Law and governmental approval applicable to this Project; and (ii) shall not use, store, generate, treat, transport, or dispose of any Materials of Environmental Concern on the Property, except in the normal course of its construction and in compliance with applicable Environmental Laws and governmental approvals applicable to the Project.

(b) In all such instance where the Construction Manager or the Owner, or any contractor or subcontractor, of either party, is permitted to store or otherwise use or handle Materials of Environmental Concern in connection with this Project, each Material of Environmental Concern shall be handled, stored, treated, used or disposed of in compliance with all applicable Environmental Laws and in a manner consistent with good engineering practices. The Owner shall have no liability resulting from any breach of this duty arising from action or inaction of the Construction Manager.

(c) The Construction Manager shall be responsible for the disposal of any Materials of Environmental Concern and shall be responsible for the signature of any waste manifest required for the documentation of disposal of any Materials of Environmental Concern affecting the work or Project site.

(d) In the event that the Construction Manager or any subcontractor of the Construction Manager causes a Release of a Material of Environmental Concern

to air, soil, groundwater, or surface water at the Property, the Construction Manager shall be responsible for the removal and remediation of such release to the extent required under any Environmental Law and governmental approval applicable to the Project site.

(e) In addition to and without limiting the generality of any other provision of this Agreement, the Construction Manager shall and hereby does indemnify and hold Owner harmless from and against any and all losses, damages, expenses, fees, claims, demands, causes of action, judgments, costs and liabilities, including, but not limited to, attorney's fees and costs of litigation, and costs and expenses of response, remedial and corrective work and other cleanup activities, arising out of or in any manner connected with Releases by the Construction Manager or Construction Manager's employees, agents, delegees, invitees, licensees, concessionaires, subcontractors or representatives, of any Material of Environmental Concern used, stored, generated, treated, transported, or disposed of regardless of the location of the Release .

(f) Notwithstanding the provisions of Section 25.01, in no event will Construction Manager be responsible for compliance with Environmental Laws, governmental approvals applicable to Project or remediation of a release to the extent any noncompliance or release arises from (A) an act or omission of the Owner or other contractors of the Owner; (B) Materials of Environmental Concern existing on the Property or adjacent property as of the Effective Date of this Agreement; or (C) a release for which the Owner is responsible;

(g) The provisions of Section 25 shall survive any payment or satisfaction of this Agreement and such provisions shall remain in full force and effect.

## ARTICLE 24

### MISCELLANEOUS

**Section 24.01. No Waiver.** No consent or waiver, express or implied, by either party to this Agreement or of any breach or default by the other in the performance of any of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default by such party. Failure on the part of the Owner to complain of any act or failure to act of the Construction Manager or to declare the Construction Manager in default, irrespective of how long such failure continues, shall not constitute a waiver of the rights of Owner.

**Section 24.02. Conflicts.** In the event of any conflict between the terms or provisions expressed in this Agreement and any term or provision in any of the other of the Contract Documents, the term or provision of this Agreement shall govern to the extent of the conflict.

**Section 24.03. Assignment.** This Agreement shall not be assigned, delegated or transferred in whole or in part by the Construction Manager nor shall the Construction

Manager assign any monies due or to become due to it without the prior written consent of the Owner.

**Section 24.04. Governing Law.** This Agreement is entered into in Georgia and shall be governed by and construed according to the laws of Georgia. Any and all disputes arising out of this Agreement, and/or the Project shall be decided by a state or federal court of competent jurisdiction in Augusta, Georgia.

**Section 24.05. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

**Section 24.06. Article and Section Headings.** Article and section headings contained in this Agreement are for ease of reference only and shall not affect the interpretation or meaning of this Agreement.

**Section 24.07. Parties in Interest.** This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors, assigns and legal representatives.

**Section 24.08. Severability.** If any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but it shall be construed as if such invalid, illegal or unenforceable provision had never been contained in it.

**Section 24.09. Notices.** All notices, requests, consents and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if hand-delivered or mailed by certified or registered mail, return receipt requested, postage prepaid;

- (a) If to the Owner, addressed to

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with copy to:

Ed Enoch  
Attorney  
Enoch Tarver PC  
3540 Wheeler Road, Suite 312  
Augusta, GA 30909  
and

Michael I. Less, Esq.  
Butler Snow, LLP  
6075 Poplar Avenue, Suite 500

Memphis, Tennessee 38119

(b) If to the Construction Manager, addressed to:

Nations Group  
Attn: Michael Harvey, AIA, LEEP AP BD+C  
7144 E. Stetson Dr., Suite 410  
Scottsdale, AZ 85251

The Owner or the Construction Manager may at any time change the addresses to which copies should be mailed by sending written notice to the other of such change in the manner provided.

**Section 24.10. Exhibits.** All exhibits described in this Agreement shall be deemed to be incorporated and made a part of this Agreement, except that if there is any inconsistency between this Agreement and the provisions of any exhibit, the provisions of this Agreement shall control to the extent of the inconsistency.

**Section 24.11. Entire Agreement.** This Agreement, together with the exhibits and the other Contract Documents, constitutes the entire agreement between the Owner and the Construction Manager and supersedes all prior written or oral agreements, understandings, representations, negotiations and correspondence between the parties. This Agreement shall not be supplemented, amended or modified by any course of dealing, course of performance or usage of trade and may only be amended or modified by a written instrument duly executed by officers of both parties.

**Section 24.12. Trade Contractor Relations Requirements.** By appropriate written agreement, the Construction Manager shall require each trade contractor, to the extent of the Work to be performed by the trade contractor, to be bound by the obligations, terms and conditions of this Agreement and the Contract Documents, and to assume toward the Construction Manager all the obligations, terms, conditions and responsibilities which the Construction Manager, by this Agreement and these Contract Documents, assumes toward the Owner, the Program Manager and Architect. Each trade contract agreement shall preserve and protect the rights of the Owner, the Program Manager and Architect under this Agreement and the Contract Documents with respect to the Work to be performed by the trade contractor so that trade contracting thereof will not prejudice the rights of the Owner, the Program Manager and the Architect. The Construction Manager shall require each trade contractor to enter into similar agreements with sub-subcontractors. The Construction Manager shall make available to each proposed trade contractor, prior to the execution of the trade contract agreement, copies of this Agreement and the Contract Documents to which the trade contractor will be bound. Trade contractors shall similarly make copies of this Agreement and the Contract Documents available to their respective proposed sub-subcontractors.



**Section 24.13. Claims for Consequential Damages.** The Construction Manager and Owner waive claims against each other for consequential damages arising out of or relating to this Agreement. This mutual waiver includes:

- (1) damages incurred by the Owner for losses of use, and for loss of management or employee productivity or of the services of such persons; and
- (2) damages incurred by the Construction Manager for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit.

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

**Section 24.14. Untitled.** Notwithstanding any term, condition, obligation or provision in this Agreement, any other writing, any other agreement, any oral understanding or agreement, or any conduct or failure to act by the Owner or the Program Manager, Construction Manager stipulates and agrees conclusively that Construction Manager has against the Owner or the Program Manager no right, entitlement or claim for any payment, compensation, cost or remuneration of any type other than pursuant to the terms of this Agreement.

**Section 24.15. Non-Discrimination.** Construction Manager agrees that it will not discriminate upon the basis of race, color, creed, religion, national origin, age, disability or sex in the performance of the Work and that each solicitation or advertisement for employees and each agreement to which Construction Manager is a party, including without limitation, all trade contracts and sub-subcontracts, shall specifically contain a provision to this effect.

**Section 24.16. Minority and Women Business Enterprise Participation.**

(a) Owner and Construction Manager recognize the positive benefits of initiatives to encourage the development of minority and women business enterprises and local business in general. Therefore, the Construction Manager affirmatively covenants that, in the selection of all employees and consultants who perform services related to the Project, significant minority and women business enterprises and local business participation will be sought commensurate with the availability of such qualify businesses in the relevant markets.

(b) **Trade Contract Diversity/Small Business Requirements.** The Construction Manager further agrees to the extent possible to award trade contract work to small businesses and diversity vendors. The following definitions shall apply:

- (1) **Small Business:** A small business is one that is independently owned and operated, is organized for profit, and is not dominant in

its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period.

- (2) **Local Small Business:** A local small business is a small business as defined above located in the Augusta Metropolitan Statistical Area (MSA), as defined by the United States Census Bureau.
- (3) **Small Disadvantaged Business:** A small, disadvantaged business is a small business, unconditionally owned and controlled by one or more socially and economically disadvantaged individuals who are of good character and citizens of the United States, and must demonstrate potential for success. Economically disadvantaged individuals are: Black Americans, Hispanic Americans, Native Americans (American Indians, Eskimos, Aleuts, and Native Hawaiians), Asian Pacific Americans (persons with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, U.S. Trust Territory of the Pacific Islands [Republic of Palau], Commonwealth of the Northern Mariana Islands, Laos, Cambodia [Kampuchea], Taiwan, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Republic of the Marshall Islands, Federated States of Micronesia, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru; Subcontinent Asian Americans (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands or Nepal), or members of other groups designated by the SBA.
- (4) **Women Owned Small Business:** A women-owned small business is a small business which is at least 51 percent owned by one or more women or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women and whose management and daily business operations are controlled by one or more women.
- (5) The Construction Manager shall provide the Owner with a list of diversity/small business contractors used and shall state the dollars spent with each such trade contractor. The Construction Manager will provide written documentation to the Owner of their efforts toward compliance.

It is understood and agreed that the Construction Manager's obligation under this section is to use its best efforts and that no minimum amount of diversity/small business contractor participation is required.

**Section 24.17. Tax Exemption.** Construction Manager recognizes that the Owner is a non-profit organization, exempt from federal and state income tax, federal transportation taxes and certain state and local sales and use taxes. The Owner is not required to pay

such taxes and such taxes should not be charged. Proper certification will be furnished as required. In the event that a third party asserts that the Owner must pay taxes pursuant to this Agreement, the Owner agrees that it will work directly with the third party to resolve the matter.

**Section 24.18. Confidentiality.** (1) Construction Manager shall hold confidential whether or not marked, and shall not without the Owner's written consent, use, copy or disclose to any persons, except its personnel with a need therefore in the course of performance of Construction Manager's obligations hereunder, any confidential information, including but not limited to designs, drawings, specifications, technical data, models, manufacturing processes or methods, trade secrets, or other proprietary data, or any other information relating to the Owner's operations, which have been delivered or disclosed to Construction Manager by the Owner, or observed by Construction Manager, its agents and employees and Construction Manager shall inform any person to whom any such information is disclosed in the performance of the Work of Construction Manager's obligation of confidentiality with regard thereto. In addition, Construction Manager shall not, without the Owner's written consent, advertise, publish or release any statement mentioning the Owner or the fact that Construction Manager has furnished or contracted to furnish the Owner with the goods or services described herein or otherwise use the name of the Owner or disclose to any third party any information related to this Agreement, the Contract Documents, or the terms thereof. (2) The Owner shall have the right to disclose pricing and other terms of this Agreement to the Owner's attorneys, accountants, group purchasing organizations, and other third parties retained by the Owner provided any such person agrees to the same level of confidentiality set forth herein. (3) Both parties acknowledge that the restrictions relating to confidential information contained in this Agreement are reasonable and necessary, that violation of these restrictions could cause damage to the Owner, and that the Owner will be entitled to injunctive relief against, and damages for, each violation. Construction Manager shall require all subcontractors to comply with the requirements of this paragraph. The Construction Manager agrees to reimburse the Owner for any damages and expenses, including but not limited to attorneys' fees and costs incurred due to or because of any violation by the Construction Manager or its subcontractors this paragraph. This obligation of confidentiality shall survive the termination or expiration of this Agreement.

**Section 24.19. O.S.H.A. (Occupational Safety and Health Administration).** All chemicals, equipment and materials proposed and/or used in the performance of the Work shall conform to the standards required by O.S.H.A.

**Section 24.20. Compliance with Laws and Regulations.** Construction Manager represents and warrants that all products and/or services furnished hereunder have been or will be manufactured or furnished in accordance with, and Construction Manager agrees to comply with, the provisions of all applicable federal and state laws (including the Fair Labor Standards Act), all lawful orders, rules, and regulations issued thereunder, and all executive orders or regulations of any Executive Department of the Government.

**Section 24.21. Intent of the Parties.** If it not the intent of the Owner or Construction Manager that any payments made under this Agreement or the Contract Documents be in return for the referral of ongoing business, if any, or in return for the purchasing, leasing, or ordering of any work, services or equipment described in this Agreement. All payments specified in the Contract Documents are consistent with what the parties reasonably believe to be a fair market value for the work, services or equipment provided.

**Section 24.22. Disclosure of Discounts.** The Construction Manager acknowledges that the Owner may report the cost of goods or services purchased from Construction Manager to government agencies. The Construction Manager will provide accurate and complete information to the Owner on the purchase price of the goods, including any discounts and rebates, so that the Owner may fulfill such obligations.

**Section 24.23. Export Control.** The Construction Manager, its affiliates, agents, and subcontractors agree to comply with all U.S. export control laws, rules and regulations with respect to its use and any permitted distribution of the materials.

**Section 24.24. Independent Contractor.** The relationship of Construction Manager and the Owner shall be and is that of independent Contractor. It is not intended that any employer-employee, joint venture or partnership be established hereby, expressly or by implication, nor shall any employee, agent or contractor of Construction Manager be deemed to be the employee or agent of the Owner or vice versa. Neither party nor any of its employees or agents shall have the right to bind the other, to transact any business in the other's name or on behalf of the other, or to make any promises or representations on behalf of the other.

**Section 24.25. Conduct.** The Construction Manager agrees that while it, its employees, agent, officers, and assigns are on the site, if applicable, they will follow all Policies and Procedures, which will be reviewed with them upon arrival. The Construction Manager, its employees, agents, officers, and assigns shall abide by the Owner's rules, regulations, policies and procedures, and standards of conduct, including ethical and professional standards, and conduct themselves in a professional manner. The Construction Manager, its employees, agents, officers, and assigns shall wear appropriate attire and display proper identification at all times while onsite.

**Section 24.26. Authorization to Work in the United States.** Construction Manager represents and warrants that its personnel performing work under this Agreement are legally authorized to work in the United States.

**Section 24.27. Background Check.** Construction Manager represents and warrants that it has ensured that its personnel performing work on the Project under this Agreement are not listed in the Georgia Sex Offender Registry, National Sex Offender Registry, or Georgia Abuse Registry.

**Section 24.28. Set Off.** The Owner may set off against any amounts due Construction Manager hereunder any amounts (or claims for amounts) due by Construction Manager to

the Owner or any of its partners or their affiliates arising either in connection with the goods or services to be provided hereunder or in connection with matters unrelated to this Agreement.

**Section 24.29. Construction Manager's License**. The Construction Manager represents and warrants to the Owner that it is properly licensed to perform the Work as required by Georgia Law.

**Section 24.01. Data Security.**

(a) For purposes of this Section, the term "Confidential Information" includes any and all Owner information received by Construction Manager pursuant to this Agreement that is not generally known to the public.

(b) Construction Manager represents and warrants that its collection, receipt, access, use, storage, disposal, and disclosure of Confidential Information does and will comply with all applicable federal and state data security laws, as well as all other applicable regulations and directives.

(c) Construction Manager shall implement administrative, physical, and technical safeguards to protect Confidential Information from unauthorized access, acquisition, or disclosure, destruction, alteration, accidental loss, misuse, or damage, and shall ensure that all such safeguards, including the manner in which Confidential Information is collected, accessed, received, used, stored, processed, disposed of, and disclosed, comply with applicable federal and state data security laws, as well as the terms and conditions of this Section.

(d) Construction Manager shall comply with the terms and conditions set forth in this Section in its creation, collection, receipt, transmission, storage, disposal, use, and disclosure of Confidential Information and be responsible for any unauthorized access, transmission, acquisition, storage, use, or disclosure of Confidential Information under its control or in its possession.

(e) At a minimum, Construction Manager's safeguards for the protection of Confidential Information shall include: (i) limiting access of Confidential Information to its employees who have a need to access; (ii) securing business facilities, data centers, paper files, servers, backup systems, and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (iii) implementing network, application, database, and platform security; (iv) securing information transmission, storage, and disposal; (v) implementing authentication and access controls within media, applications, operating systems, and equipment; (vi) encrypting Confidential Information stored on any mobile device or media; (vii) encrypting Confidential Information transmitted over public or wireless networks; (viii) strictly segregating Confidential Information from information of Construction Manager or its other customers so that Confidential Information is not commingled with any other types

of information; (ix) conducting risk assessments, penetration testing, and vulnerability scans at least annually and promptly implementing, at Construction Manager's sole cost and expense, a corrective action plan to correct any issues that are reported as a result of the assessments; and (x) providing appropriate privacy and information security training to Construction Manager's employees with access to Confidential Information.

(f) Construction Manager shall notify Owner of any data as soon as Construction Manager becomes aware of it and in no event later than two (2) calendar days after it becomes aware of it. Immediately following Construction Manager's notification to Owner and if Construction Manager determines that Owner's Confidential Information was involved in a data breach, the parties shall coordinate with each other to investigate the data breach. Construction Manager agrees to fully cooperate with Owner in the investigation, including, without limitation: (i) assisting with any investigation; (ii) providing Owner with physical access to the facilities, operations and systems affected; (iii) facilitating interviews with Construction Manager's employees and others involved in the matter; (iv) making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law, regulation, industry standards, or as otherwise requested by Owner; and (v) maintaining and preserving all documents, records, and other data relating to any data breach.

(g) Construction Manager shall at its own expense take reasonable steps to immediately contain and remedy any data breach and prevent any further data breach, including, but not limited to taking any and all action necessary to comply with applicable data breach laws, regulations, and standards. Construction Manager shall reimburse Owner for all actual costs incurred by Owner in responding to, and mitigating damages caused by, any data breach, including all costs of notice and/or remediation.

(h) Construction Manager agrees that it shall not inform any third party of any data breach without first obtaining Owner's prior written consent, other than to inform a complainant that the matter has been forwarded to Owner's legal counsel. Further, Construction Manager agrees that Owner shall have the sole right to determine: (i) whether notice of the data breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies, or others as required by law or regulation, or otherwise in Owner's discretion; and (ii) the contents of such notice, whether any type of remediation may be offered to affected persons, and the nature and extent of any such remediation. Construction Manager further agrees to fully cooperate, at its own expense, with Owner in any litigation, investigation, regulatory inquiry, or other action deemed necessary by Owner to protect its rights relating to the use, access, disclosure, protection and maintenance of Confidential Information.

(i) To confirm Construction Manager's compliance with this Agreement, as well as any applicable laws, regulations, and industry standards, and upon Owner's written request, Construction Manager grants Owner or, upon Owner's election, a third party on Owner's behalf, permission to perform an

assessment, audit, examination, or review of all controls in Construction Manager's physical and/or technical environment in relation to all Confidential Information being handled and/or services being provided to Owner pursuant to this Agreement. Construction Manager shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure, and application software that processes, stores, or transports Confidential Information pursuant to this Agreement. In addition, upon Owner's written request, Construction Manager shall provide Owner with the results of any audit by or on behalf of Construction Manager performed that assesses the effectiveness of its data security program as relevant to the security and confidentiality of Confidential Information shared during the course of this Agreement. [Upon Owner's written request, Construction Manager shall promptly and accurately complete a written information security questionnaire provided by Owner, or a third party on Owner's behalf, regarding Construction Manager's information technology environment in relation to all Confidential Information being handled by Construction Manager pursuant to this Agreement. Construction Manager shall fully cooperate with such inquiries.]

(j) Construction Manager shall defend, indemnify, and hold harmless Owner and its subsidiaries, affiliates, and respective officers, directors, employees, agents, successors, and permitted assigns (each, an "Owner Indemnatee") from and against all losses, damages, liabilities, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, arising out of or resulting from any third-party claim against any Owner Indemnatee as a result of Construction Manager's failure to comply with the its information confidentiality and data security requirements. This obligation shall include reimbursing the costs or expenses incurred by Owner in providing any notices to parties whose information may have been subject to unauthorized access of Confidential Information, as well as defending, indemnifying, and holding Owner harmless from any third party claims or causes of action of any kind arising from or relating to the Construction Manager's use, maintenance, or handling of Confidential Information. These remedies shall be in addition to any other remedies provided within this Agreement or otherwise available under law.

**IN WITNESS WHEREOF**, the parties have made and executed this Agreement as of the day and year first above written.

**AUGUSTA-RICHMOND COUNTY  
COLISEUM AUTHORITY**

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

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

STATE OF GEORGIA        )  
  ) ss.  
COUNTY OF RICHMOND )

Personally appeared before me a Notary Public, \_\_\_\_\_, with whom I am personally acquainted, and who, upon oath, acknowledged himself/herself to be the \_\_\_\_\_ of AUGUSTA-RICHMOND COUNTY COLISEUM AUTHORITY, a Georgia corporation, and that he/she, as such officer, being authorized to do so, executed the foregoing instrument for the purpose contained herein, by signing the name of the corporation by himself/herself as \_\_\_\_\_.

Witness my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_



**CONSTRUCTION MANAGER**

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

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

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Personally appeared before me a Notary Public, \_\_\_\_\_, with whom I am personally acquainted, and who, upon oath, acknowledged himself/herself to be \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ company, and that he/she, as such officer, being authorized so to do, executed the foregoing instrument for the purpose contained therein, by signing the name of the corporation by himself/herself as \_\_\_\_\_.

Witness my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF WORK**

**EXHIBIT B**

**CONTRACT DOCUMENTS**

**EXHIBIT C**  
**ORGANIZATIONAL CHART**

**EXHIBIT D**

**CONSTRUCTION MANAGER'S PROPOSAL**

**EXHIBIT E**  
**PROGRESS SCHEDULE**

**EXHIBIT F**  
**GENERAL CONDITIONS**

**EXHIBIT G**

**PARTIAL LIEN WAIVER AND RELEASE**

STATE OF GEORGIA )

) ss.

COUNTY OF AUGUSTA-RICHMOND )

The undersigned, \_\_\_\_\_ (“Contractor”) having entered into a Construction Management Agreement (“Agreement”) with \_\_\_\_\_ (“Owner”) for the construction of improvements known as the James Brown Arena, Augusta, Georgia (hereinafter the “Project”), acknowledges receipt of the sum of \$\_\_\_\_\_ as partial payment for work performed on the Project and does, through the date of this Partial Lien Waiver, hereby waive and release any and all liens, the right to file a mechanic’s lien, under the statutes of the State of Georgia, including, but not limited to, GA Code Ann. § - \_\_\_\_\_, relating to the Project, and any other right, claim, cause of action, additional cost, expenses or damages of any nature, whether known or unknown, arising directly or indirectly as a result of labor, services, materials, equipment or fixtures furnished, by Contractor for the above described Project through the date of this Partial Lien Waiver and Release.

The undersigned waives, through the date of this Partial Lien Waiver and Release, any claim for *quantum meruit* or unjust enrichment, additional work, verbal agreements, increased cost, scheduling damages, including but not limited to damages for delay, disruption, acceleration and/or interference, whether existing now or arising in the future, for and on account of labor and materials furnished to the Project.

The Contractor represents and warrants that it has not assigned any claim against or any right to payment from the Owner, and that no security interest has been given or executed by the undersigned for or in connection with any materials, appliances, machinery, fixtures or furnishings placed upon or installed on the Project.

The undersigned certifies and warrants that it has paid the amount due, through the date of this Partial Lien Waiver and Release, all of its subcontractors, suppliers and materialmen for any and all labor, materials and services rendered in connection with the



construction and improvement of the Project and that its work has complied with all local, state and federal laws. The undersigned agrees to indemnify and hold harmless Owner, its agents, partners, lenders, successors and assignees, from any and all charges, costs, expenses, demands, suits, and legal fees, directly or indirectly, relating to any lien or claim by any immediate or remote subcontractor, supplier, or any other party for work, labor, services, material, and/or equipment furnished to the Project. The undersigned warrants that it has the right, power and authority to execute this instrument, which shall be an independent covenant.

\_\_\_\_\_

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

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

Before me, a notary public of the state and county mentioned, personally appeared \_\_\_\_\_, with whom I am personally acquainted, and who, upon oath, acknowledged such person to be \_\_\_\_\_, an officer authorized to execute the instrument, of \_\_\_\_\_, the within named bargainor, a limited liability company, and that such officer, as such \_\_\_\_\_, executed the foregoing instrument for the purposes therein contained, by personally signing the name of the limited liability company as \_\_\_\_\_.

Witness my hand and seal, at office, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

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

**EXHIBIT H**

**PARTIAL LIEN WAIVER AND RELEASE**  
**(FOR SUBCONTRACTORS)**

STATE OF GEORGIA )

) ss.

COUNTY OF AUGUSTA-RICHMOND )

The undersigned, \_\_\_\_\_ (“Subcontractor”) having entered into a subcontract (“Subcontract”) with \_\_\_\_\_ (“Contractor”) for the construction of improvements known as the James Brown Arena, Augusta, Georgia (hereinafter the “Project”), acknowledges receipt of the sum of \$\_\_\_\_\_ as partial payment for work performed on the Project and does through the date of this Partial Lien Waiver, hereby waive and release any and all liens, the right to file a mechanic’s lien, under the statutes of the State of Georgia, including, but not limited to, GA Code Ann. § \_\_\_\_\_, *et seq.*, relating to the Project, and any other right, claim, cause of action, additional cost, expenses or damages of any nature, whether known or unknown, arising directly or indirectly as a result of labor, services, materials, equipment or fixtures furnished, by Subcontractor for the above described Project through the date of this Partial Lien Waiver and Release.

The undersigned, upon receipt of payment due under its Subcontract waives, through the date of this Partial Lien Waiver and Release, any claim for *quantum meruit* or unjust enrichment, additional work, verbal agreements, increased cost, scheduling damages, including but not limited to damages for delay, disruption, acceleration and/or interference, whether existing now or arising in the future, for and on account of labor and materials furnished to the Project.

The Subcontractor represents and warrants that it has not assigned any claim against or any right to payment from the Contractor, and that no security interest has been given or executed by the undersigned for or in connection with any materials, appliances, machinery, fixtures or furnishings placed upon or installed on the Project.

The undersigned certifies and warrants that it has paid the amount due or will pay the amount due within seven (7) days from receipt of payment, through the date of this Partial Lien Waiver and Release, all of its subcontractors, suppliers and materialmen for any and all labor, materials and services rendered in connection with the construction and improvement of the Project and that its work has complied with all local, state and federal laws. The undersigned

agrees to indemnify and hold harmless Owner, the Contractor, their agents, partners, successors and assignees, from any and all charges, costs, expenses, demands, suits, and legal fees, directly or indirectly, relating to any lien or claim by any immediate or remote subcontractor, supplier, or any other party for work, labor, services, material, and/or equipment furnished to the Project. The undersigned warrants that it has the right, power and authority to execute this instrument, which shall be an independent covenant.

***[SUBCONTRACTOR]***

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

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

Before me, a notary public of the state and county mentioned, personally appeared \_\_\_\_\_, with whom I am personally acquainted, and who, upon oath, acknowledged such person to be \_\_\_\_\_, an officer authorized to execute the instrument, of ***[SUBCONTRACTOR]***, the within named bargainor, a limited liability company, and that such officer, as such \_\_\_\_\_, executed the foregoing instrument for the purposes therein contained, by personally signing the name of the limited liability company as \_\_\_\_\_.

Witness my hand and seal, at office, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**EXHIBIT I**

**FINAL LIEN WAIVER AND RELEASE**

STATE OF GEORGIA )  
 ) ss.  
COUNTY OF AUGUSTA-RICHMOND )

The undersigned, \_\_\_\_\_ (“Contractor”) having entered into a Construction Management Agreement (“Agreement”) with \_\_\_\_\_ (“Owner”) for the construction of improvements known as the James Brown Arena, August, Georgia (hereinafter the “Project”), does hereby waive and release any and all liens, the right to file a mechanic’s lien, under the statutes of the State of Georgia, including, but not limited to, GA Code Ann. § 66-11-101, et seq., relating to the Project, and any other right, claim, cause of action, additional cost, expenses or damages of any nature, whether known or unknown, arising directly or indirectly as a result of labor, services, materials, equipment or fixtures heretofore furnished, by Contractor for the above described Project.

The undersigned waives any claim for *quantum meruit* or unjust enrichment, additional work, verbal agreements, increased cost, scheduling damages, including but not limited to damages for delay, disruption, acceleration and/or interference, whether existing now or arising in the future, for and on account of labor and materials furnished to the Project.

The Contractor represents and warrants that it has not assigned any claim against or any right to payment from the Owner, and that no security interest has been given or executed by the undersigned for or in connection with any materials, appliances, machinery, fixtures or furnishings placed upon or installed on the Project.

The undersigned certifies and warrants that it has paid all of its subcontractors, suppliers and materialmen for any and all labor, materials and services rendered in connection with the construction and improvement of the Project and that its work has complied with all local, state and federal laws. The undersigned agrees to indemnify and hold harmless Owner, its agents, partners, lenders, successors and assignees, from any and all charges, costs, expenses, demands, suits, and legal fees, directly or indirectly, relating to any lien or claim by any immediate or remote subcontractor, supplier, or any other party for work, labor, services, material, and/or equipment furnished to the Project. The undersigned warrants that it has the right, power and authority to execute this instrument, which shall be an independent covenant.

\_\_\_\_\_

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

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

Before me, a notary public of the state and county mentioned, personally appeared \_\_\_\_\_, with whom I am personally acquainted, and who, upon oath, acknowledged such person to be \_\_\_\_\_, an officer authorized to execute the instrument, of \_\_\_\_\_, the within named bargainor, a limited liability company, and that such officer, as such \_\_\_\_\_, executed the foregoing instrument for the purposes therein contained, by personally signing the name of the limited liability company as \_\_\_\_\_.

Witness my hand and seal, at office, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**EXHIBIT J**

**FINAL LIEN WAIVER AND RELEASE**  
**(FOR SUBCONTRACTORS)**

STATE OF GEORGIA )

) ss.

COUNTY OF AUGUSTA-RICHMOND )

The undersigned, \_\_\_\_\_ (“Subcontractor”) having entered into a subcontract (“Subcontract”) with \_\_\_\_\_ (“Contractor”) for the construction of improvements known as the James Brown Arena, Augusta, Georgia (hereinafter the “Project”), acknowledges receipt of the sum of \$\_\_\_\_\_ as partial payment for work performed on the Project and does through the date of this Partial Lien Waiver, hereby waive and release any and all liens, the right to file a mechanic’s lien, under the statutes of the State of Georgia, including, but not limited to, GA Code Ann. § \_\_\_\_\_, *et seq.*, relating to the Project, and any other right, claim, cause of action, additional cost, expenses or damages of any nature, whether known or unknown, arising directly or indirectly as a result of labor, services, materials, equipment or fixtures furnished, by Subcontractor for the above described Project through the date of this Partial Lien Waiver and Release.

The undersigned, upon receipt of payment due under its Subcontract waives, through the date of this Partial Lien Waiver and Release, any claim for *quantum meruit* or unjust enrichment, additional work, verbal agreements, increased cost, scheduling damages, including but not limited to damages for delay, disruption, acceleration and/or interference, whether existing now or arising in the future, for and on account of labor and materials furnished to the Project.

The Subcontractor represents and warrants that it has not assigned any claim against or any right to payment from the Contractor, and that no security interest has been given or executed by the undersigned for or in connection with any materials, appliances, machinery, fixtures or furnishings placed upon or installed on the Project.

The undersigned certifies and warrants that it has paid the amount due or will pay the amount due within seven (7) days from receipt of payment, through the date of this Partial Lien Waiver and Release, all of its subcontractors, suppliers and materialmen for any and all labor, materials and services rendered in connection with the construction and improvement of the Project and that its work has complied with all local, state and federal laws. The undersigned

agrees to indemnify and hold harmless Owner, the Contractor, their agents, partners, successors and assignees, from any and all charges, costs, expenses, demands, suits, and legal fees, directly or indirectly, relating to any lien or claim by any immediate or remote subcontractor, supplier, or any other party for work, labor, services, material, and/or equipment furnished to the Project. The undersigned warrants that it has the right, power and authority to execute this instrument, which shall be an independent covenant.

***[SUBCONTRACTOR]***

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

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

Before me, a notary public of the state and county mentioned, personally appeared \_\_\_\_\_, with whom I am personally acquainted, and who, upon oath, acknowledged such person to be \_\_\_\_\_, an officer authorized to execute the instrument, of ***[SUBCONTRACTOR]***, the within named bargainor, a limited liability company, and that such officer, as such \_\_\_\_\_, executed the foregoing instrument for the purposes therein contained, by personally signing the name of the limited liability company as \_\_\_\_\_.

Witness my hand and seal, at office, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

# **EXHIBIT 4**

GC/GR Differentiation Document



**GC/GR DIFFERENTIATION DOCUMENT**

GC's

GR's

**STAFFING**

EXECUTIVE LEADERSHIP

FEE & OH

PROJECT STAFF

X

ACCOUNTING

X

SUBSISTENCE/TLA/RELOCATION

X

JOBSITE TRUCKS

X

LEGAL

X

STAFF BURDEN

X

**FIELD OFFICE**

TRAILERS AND SETUP

X

JANITORIAL AND SECURITY

X

UTILITY CONSUMPTION

X

UTILITY HOOKUP

X

TELEPHONE AND FAX

X

TRAILER FURNITURE

X

DRINKING WATER - TRAILER

X

REPRODUCTION

X

COPY MACHINE

X

OFFICE SUPPLIES

X

SCHEDULING

X

IT EQUIPMENT

X

HOME OFFICE SUPPORT

X

TECHNOLOGY FEES/SOFTWARE/PM SOFTWARE COSTS

X

PROJECT OFFICE INTERNET/PHONES

X

IPADS AND MOBILE PHONES

X

COMPUTERS/COMPUTER PROGRAMS

X

POSTAGE FOR SUBMITTALS

X

WARRANTY MANAGEMENT

X

PROGRESS PHOTOS/REMOTE CAMERAS (OX BLUE)

X

PROJECT SIGN

X

VENDOR VISIT TRAVEL

X

CLEAN UP LABOR

X

DUMPSTERS

X

FINAL CLEAN

X

STORAGE TRAILERS & TOOL SHEDS

X

GC CLEANUP SUPPLIES

X

GC ROUGH HARDWARE/MISC TOOLS

X

SAFETY AND FIRST AID (EXCLUDES STAFF)

X

TEMP FIRE PROTECTION/EXTINGUISHERS

X

TEMPORARY LATRINES/SINKS

X

JOBSITE SECURITY

X

CRANES NOT CARRIED BY SUBCONTRACTORS

X

**GC/GR DIFFERENTIATION DOCUMENT**

GC's

GR's

FIELD ENGINEERING/SURVEY		X
JOBSITE FENCING		X
SWPPP/EROSION CONTROL		X
TEMPORARY ROADS/ROAD SWEEPING		X
BARRICADES		X
TEMPORARY TRAFFIC CONTROL		X
TEMPORARY ELEVATOR USAGE/PROTECTION		X
WEATHER PROTECTION		X
PROTECTION OF INSTALLED MATERIALS		X
TEMP POWER/TEMP LIGHTING FOR JOBSITE		COW
POWER USAGE FOR TEMP POWER/TEMP LIGHTING		X