

**REQUEST FOR BOARD ACTION**

**HENDERSON COUNTY  
BOARD OF COMMISSIONERS**

**MEETING DATE:** April 6, 2026

**SUBJECT:** Pre-Construction Fee Proposal – Henderson County Public Schools Bus Garage Project

**PRESENTER:** Bryan Rhodes, Capital Projects Director

**ATTACHMENTS:** Yes

1. Vendor Proposal
2. AIA-A133

**SUMMARY OF REQUEST:**

Staff is in receipt of a Pre-Construction Fee Proposal from Edifice Construction for Pre-Construction Services for the Henderson County Public Schools Bus Garage Project.

The Pre-Construction Proposal received from Edifice Construction is for a fee of \$78,800.

This proposal, if accepted, will be funded by cost savings realized from current Henderson County Public Schools Maintenance, Repairs, Technology and Security (MRTS) projects.

**BOARD ACTION REQUESTED:**

The Board is requested to approve the Pre-Construction Proposal from Edifice Construction and authorize staff to proceed to contract for Pre-Construction Services for the Henderson County Public Schools Bus Garage Project and to reallocate \$78,800 in cost savings from MISC-25-3 to BG-26-1 for HCPS MRTS.

**Suggested Motion:**

*I move the Henderson County Board of Commissioners approve the Pre-Construction Proposal for Edifice Construction in the amount of \$78,800 and approve funding reallocation to the Bus Garage project.*

 **AIA**® Document A133® – 2019

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

AGREEMENT made as of the **sixth** day of **April** in the year **2026**

**BETWEEN** the Owner:

**County of Henderson, A body of corporate & politic  
One Historic Courthouse Square, Suite one  
Hendersonville, North Carolina 28792**

and the Construction Manager:

**Edifice, LLC  
Post Office Box 36349  
Charlotte, North Carolina 28236  
Telephone No.: (704) 332-0900  
Fax No.: (704) 332-0901  
North Carolina General Contracting License No. 10514**

for the following Project:

**Henderson County Public Schools Bus Garage  
246 Education Drive  
Flat Rock, NC 28731**

The Architect:

**LS3P  
Maggie Carnevale  
14 O'Henry Avenue, Suite 210  
Asheville, North Carolina 28801  
Telephone No.: (828) 575-1808**

The Owner and Construction Manager agree as follows.

**ADDITIONS AND DELETIONS:**

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

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

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

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### EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

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## ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

**The Project includes demolition of an existing building and construction of a new bus garage. The build will include all necessary building systems components, including but not limited to HVAC, plumbing, electrical, structural, electronic security, AV equipment, data, interior, and exterior finishes, envelope/enclosure, and parking, associated with a yet to be finalized design criteria and scope, are to be included in the project scope. A part of the CMR's scope will be necessary programming with the Henderson County and Henderson County Public Schools, in order to provide cost estimates and schedules for project approval. Additionally, the CMR services will be to provide the necessary Pre-Construction and Bid Administration for the bidding process and awarding of the trades, to ensure project success.**

§ 1.1.2 The Project's physical characteristics:

**The project site is located at 246 Education Drive, Flat Rock, NC 28731 where there is currently an existing metal building that will be demolished to accommodate construction of the new bus garage.**

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:

**The approximate construction budget is \$8 to \$10 Million.**

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

.1 Design phase milestone dates, if any:

**To be determined**

.2 Construction commencement date:

**To be determined**

.3 Substantial Completion date or dates:

**To be determined**

.4 Other milestone dates:

**To be determined**

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

**To be determined**

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

**Not Applicable**

§ 1.1.6.1 [Intentionally Omitted].

§ 1.1.7 Other Project information:

**The Project will be constructed next to Henderson County Schools facility located at 246 Education Drive, Flat Rock, NC 28731. Site logistics plans will be coordinated with Henderson County and Henderson County Schools to ensure minimal impact to adjacent facilities.**

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

**Bryan Rhodes  
Henderson County Capital Projects Director  
100 N. Kings Street  
Hendersonville, North Carolina 28792  
Telephone No.: (828) 694-6525  
brhodes@hendersoncountync.gov**

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:

**Not Applicable**

§ 1.1.10 The Owner shall retain the following consultants and contractors:

.1 Geotechnical Engineer:

**To be determined**

.2 Civil Engineer:

**WGLA Engineering, PLLC  
724 5<sup>th</sup> Ave West  
Hendersonville, NC 28739**

.3 Other, if any:

**To be determined**

§ 1.1.11 The Architect's representative:

**LS3P**

**Maggie Carnevale**

**14 O'Henry Avenue, Suite 210**

**Ashville, North Carolina 28801**

**Telephone No.: (828) 575-1808**

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:

**Mike Carlisto, Executive Vice President**

**Edifice, LLC**

**2213 Toomey Avenue**

**Charlotte, North Carolina 28203**

**Telephone No.: (704) 332-0900**

**mcarlisto@edificeinc.com**

**and**

**Ryan Lefebvre, Education Market Leader**

**Edifice, LLC**

**2213 Toomey Avenue**

**Charlotte, North Carolina 28203**

**Telephone No.: (704) 332-0900**

**rlefebvre@edificeinc.com**

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:

**See Exhibit C - Preconstruction Scope of Services and Exhibit D - Preconstruction Services Fee.**

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:

**On public projects in North Carolina, the Construction Manager shall follow all procurement requirements for Construction Management at Risk Projects as written in N.C. General Statute § 143-128.**

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

**TBD – Implement Design Documents into the Agreement at the GMP Amendment.**

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

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

## **ARTICLE 2 GENERAL PROVISIONS**

### **§ 2.1 The Contract Documents**

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents

listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

## **§ 2.2 Relationship of the Parties**

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

## **§ 2.3 General Conditions**

**§ 2.3.1** For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

**§ 2.3.2** For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2017, which document is incorporated herein by reference. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

## **ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES**

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

### **§ 3.1 Preconstruction Phase**

#### **§ 3.1.1 Extent of Responsibility**

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

**§ 3.1.2** The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

#### **§ 3.1.3 Consultation**

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

**§ 3.1.3.2** The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide

recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

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

#### § 3.1.4 Project Schedule

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

#### § 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

#### § 3.1.6 Cost Estimates

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

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

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

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

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

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

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

**§ 3.1.11 Subcontractors and Suppliers**

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

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

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

**§ 3.1.12 Procurement**

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

**§ 3.1.13 Compliance with Laws**

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

E-VERIFY: North Carolina General Statute 143-133.3 prohibits any county government from entering into contracts with contractors and subcontractors who have not complied with the requirement of Article 2 of Chapter 64 of the North Carolina General Statutes and will require all subcontractors to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

**§ 3.1.14 Other Preconstruction Services**

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

See **Exhibit C - Preconstruction Scope of Services and Exhibit D - Preconstruction Services Fee.**

**§ 3.2 Guaranteed Maximum Price Proposal**

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

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

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

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of

- the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

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

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

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

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

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

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

### § 3.3 Construction Phase

#### § 3.3.1 General

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

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

#### § 3.3.2 Administration

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

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

### **§ 3.3.2.3 Monthly Report**

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

### **§ 3.3.2.4 Daily Logs**

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

### **§ 3.3.2.5 Cost Control**

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

## **ARTICLE 4 OWNER'S RESPONSIBILITIES**

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

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

**§ 4.1.2** Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

**§ 4.1.3** The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

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

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

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

**§ 4.1.4.3** The Owner, when such services are requested, shall furnish services of geotechnical engineers, which

may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

#### § 4.2 Owner's Designated Representative

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

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

#### § 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™-2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

### ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

#### § 5.1 Compensation

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

**The Construction Manager shall be paid a lump sum of Seventy-Eight Thousand Eight Hundred and 00/100 Dollars (\$78,800.00) which includes all costs, expenses, and fees for Preconstruction Services. See Exhibit C - Preconstruction Scope of Services and Exhibit D - Preconstruction Services Fee. If the Project does not proceed for any reason, then the Construction Manager shall be paid its actual costs to date not to exceed Seventy-Eight Thousand Eight Hundred and 00/100 Dollars (\$78,800.00).**

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth in **Exhibit D - Preconstruction Services Fee**.

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

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within **eight (8)** months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

#### § 5.2 Payments

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

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid sixty (60) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

**12% per annum**

## **ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES**

### **§ 6.1 Contract Sum**

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

§ 6.1.2 The Construction Manager's Fee:

**3.75% of Cost of the Work to be converted to a Lump Sum at Owner's acceptance of the GMP.**

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

**The Cost of the Work plus three and three quarters percent (3.75%) for additive changes and the Cost of the Work minus zero percent (0%) for deductive changes.**

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

**10% Overhead plus 5% Profit**

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed ninety-five percent (95%) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:

**The Owner and the Construction Manager acknowledge and agree that if the Construction Manager fails to achieve Substantial Completion of the Work within the Contract Time, the Construction Manager agrees to pay the Owner as liquidated damages, and not as a penalty, but as a reasonable estimate of the amount of damages the Owner will suffer, the amount of one thousand and 00/1000 dollars (\$1,000.00) per day for each calendar day after the expiration of the Contract Time during which the Construction Manager fails to achieve Substantial Completion. The liquidated damages described in this paragraph shall be the Owner's sole and exclusive remedy for any delays.**

§ 6.1.7 Other:

**At the conclusion of the construction phase, the unused portion of the Construction Manager's Construction Contingency will be considered available for a 50% Construction Manager to 50% Owner's Split.**

### **§ 6.2 Guaranteed Maximum Price**

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

### **§ 6.3 Changes in the Work**

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

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

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

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

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

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

§ 6.3.6 In the event of a significant delay or significant price increase of materials which occurs during the performance of the Work through no fault of the Construction Manager, the Contract Sum and Contract Time shall be equitably adjusted by Change Order in accordance with the procedures of this Article. A price increase shall be considered “significant” when the price of a material increases five percent (5%) or more between the date of this Agreement and the date of the purchase of the material.

## ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

### § 7.1 Costs to Be Reimbursed

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

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

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

### § 7.2 Labor Costs

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

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

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

**The following individuals’ costs shall be included in the Cost of Work at the following rates:**

| Title                | Rate                |
|----------------------|---------------------|
| Project Executive    | \$5,536.00 per week |
| Construction Manager | \$5,295.00 per week |

|                                  |                            |
|----------------------------------|----------------------------|
| <b>Project Manager</b>           | <b>\$4,633.00 per week</b> |
| <b>Assistant Project Manager</b> | <b>\$3,114.00 per week</b> |
| <b>Superintendent</b>            | <b>\$4,498.00 per week</b> |
| <b>Assistant Superintendent</b>  | <b>\$3,114.00 per week</b> |
| <b>Quality Control Manager</b>   | <b>\$2,888.00 per week</b> |
| <b>Project Assistant</b>         | <b>\$1,986.00 per week</b> |

**Costs shall commence approximately two (2) weeks prior to the start of construction and conclude upon Final Completion. The above stated rates include each individual's base salary and the burdens described in Section 7.2.4**

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

**§ 7.2.4** Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3. **Costs of this Section 7.2.4 for those individuals identified in Section 7.2.2.1 are included in the stated rates. Costs as noted in this Section 7.2.4 for those individuals associated with Section 7.2.1 are to be considered actual Cost of the Work at the reimbursable rate of forty-nine percent (49%).**

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

### **§ 7.3 Subcontract Costs**

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

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

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

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

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

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

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

exceed the purchase price of any comparable item.

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

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

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

**§ 7.6 Miscellaneous Costs**

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

§ 7.6.1.1 **The Construction Manager's Insurance is to be considered a Cost of the Work at the following rates applied to the total of all items that make up the Cost of the Work per Article 7:**

|  |              |
|--|--------------|
| <b>General Liability</b>               | <b>0.90%</b> |
| <b>Builder's Risk</b>                  | <b>0.35%</b> |
| <b>Pollution Insurance</b>             | <b>0.05%</b> |
| <b>Payment and Performance Bonds</b>   | <b>1.0%</b>  |
| <b>Subcontractor Default Insurance</b> | <b>1.5%</b>  |

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

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

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

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

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

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

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

§ 7.6.6 Costs for electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval, **which are to be considered a Cost of the Work at the reimbursable rate of 0.25% of the total Cost of the Work.**

§ 7.6.7 Costs of communications services, **including cell phone, site phones, and internet service**, document reproductions and delivery charges.

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

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

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

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work **including but not limited to the Superintendent's vehicle and fuel, the Project Manager's vehicle and fuel, and the meals and living expenses of those individuals identified in Article 7.2.2.1.**

### § 7.7 Other Costs and Emergencies

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

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201-2017.

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

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

### § 7.8 Related Party Transactions

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

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

### § 7.9 Costs Not To Be Reimbursed

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

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;

- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

## **ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS**

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

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

## **ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS**

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

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

## **ARTICLE 10 ACCOUNTING RECORDS**

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete

documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

## **ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES**

### **§ 11.1 Progress Payments**

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

**§ 11.1.2** The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

**§ 11.1.3** Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the last day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Architect receives the Application for Payment.

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

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

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

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

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

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

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

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

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule

of values;

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

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

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

#### § 11.1.8 Retainage

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

##### Five Percent (5%)

§ 11.1.8.1.1 The following items are not subject to retainage:

##### Cost of Bonds, Insurance, Permits, General Conditions, and the Construction Manager's Fee

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

**When the project reaches Fifty Percent (50%) completion, as established to the satisfaction of the Owner and the Architect in accordance with the most recent schedule of values, retainage shall be reduced to two and one half percent (2.5%); when the project reaches substantial completion, retainage shall be reduced to the one hundred fifty percent (150%) of the reasonable value of all remaining work to be completed, as determined by the Architect and Owner.**

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

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

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

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the

Construction Manager shall execute subcontracts in accordance with those agreements.

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

## § 11.2 Final Payment

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

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

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

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

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

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201-2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment.

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

## § 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is

located.

**12% per annum**

## **ARTICLE 12 DISPUTE RESOLUTION**

### **§ 12.1 Initial Decision Maker**

**§ 12.1.1** Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager’s Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

**§ 12.1.2** The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager’s Construction Phase services.

### **§ 12.2 Binding Dispute Resolution**

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

Litigation in a court of competent jurisdiction

## **ARTICLE 13 TERMINATION OR SUSPENSION**

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

**§ 13.1.1** If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

**§ 13.1.2** In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

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

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

**§ 13.1.5** If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

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

**§ 13.1.6** The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction

Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

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

### § 13.2.1 Termination

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

### § 13.2.2 Termination by the Owner for Cause

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

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

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

### § 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

**Cost incurred Plus Fee of 10%**

**Overhead Incurred Plus Fee of 10%**

## § 13.3 Suspension

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

## ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in

this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

## § 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

## § 14.3 Insurance and Bonds

### § 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than **One Million and 00/100 Dollars (\$1,000,000.00)** for each occurrence and **Two Million and 00/100 Dollars (\$2,000,000.00)** in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than **One Million and 00/100 Dollars (\$1,000,000.00)** per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers’ Compensation at statutory limits and Employers Liability with policy limits not less than **One Million and 00/100 Dollars (\$1,000,000.00)** each accident, **One Million and 00/100 Dollars (\$1,000,000.00)** each employee, and **One Million and 00/100 Dollars (\$1,000,000.00)** policy limit.

§ 14.3.1.5 [Intentionally Omitted].

### § 14.3.1.6 Other Insurance

| Coverage                               | Limits  |
|--|---|
| <b>Builders Risk Insurance</b>         | <b>To be provided during construction phase</b> |
| <b>General Liability Insurance</b>     | <b>To be provided during construction phase</b> |
| <b>Performance and Payment Bonds</b>   | <b>To be provided during construction phase</b> |
| <b>Subcontractor Default Insurance</b> | <b>To be provided during construction phase</b> |

§ 14.3.1.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager’s negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner’s insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

**§ 14.3.2 Construction Phase**

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™-2019 Exhibit B, and elsewhere in the Contract Documents.

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

**Notice may be delivered electronically to the respective representatives identified in Section 1.1.8 and Section 1.1.12.**

§ 14.5 Other provisions:

**Not applicable.**

**ARTICLE 15 SCOPE OF THE AGREEMENT**

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

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™-2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .5 **Other:**

**Exhibit C – Preconstruction Scope of Services**

**Exhibit D – Preconstruction Services Fee**

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

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

\_\_\_\_\_  
(Printed name and title)



\_\_\_\_\_  
CONSTRUCTION MANAGER (Signature)

BY: Mike Carlisto, Executive Vice  
President

\_\_\_\_\_  
(Printed name and title)



**Exhibit C**  
**Preconstruction Scope of Services**  
**Henderson County**  
**Henderson County Public Schools Bus Garage**  
**March 19, 2026**

**PRECONSTRUCTION SERVICES** (From April 2026 to November 2026): Scope of services will include but not be limited to the following activities:

**General Preconstruction Services at Each Phase of Design**

**Schematic Design:**

- Update and coordination meetings with owner and design team – Bi-Weekly or as needed.
- Programming review and verification.
- Develop a project schedule with design milestones, budget milestones, authorities having jurisdiction review and approvals, owner activities, and high-level construction activities and milestones.
- Quantity take off and unit cost pricing analysis.
- Schematic design estimate.
- Clarifications to estimate.
- Value engineering review and workshop with owner and designer.
- Reconcile estimate with independent professional construction cost estimator if hired by others.
- High level constructability review.
- Facilitate estimate review meeting and refine the estimate based on team comments.
- Establish Project Collaborative website for the Project Team to utilize and share information.

**Design Development**

- Update and coordination meetings with owner and design team – Bi-Weekly or as needed.
  - Discuss initial topics, open and action items, new items, design related items, Owner related items, preconstruction and construction related items. Schedule updates and constant budget impact discussions.
- Schedule updates and coordination of Long Lead materials and components.
- Product and system analysis with recommendations.
- Design development budget update and estimate.
  - Quantity take-off and unit cost pricing analysis.
  - Solicit key trades for current market pricing as needed.
  - Clarifications to estimate.
  - Reconcile estimate with independent professional construction cost estimator if hired by others.
  - Reconcile estimate with the Project Team.
  - Facilitate estimate review meeting and refine the estimate based on team comments.
  - Value engineering review and workshop with owner and designer.
    - Analyze products and building systems and make recommendations.
- Identify and create bidding Trade Packages.
- Develop initial Site Logistics and Phasing Plans.
- Constructability Review.
  - Verify items from Schematic Design.
  - Create and coordinate new items with the project team.
- Perform BIM visualization documents and early clash detection analysis.
- Edifice will identify and track preferred alternates the owner and project have deemed necessary.
- Edifice will assist with preparation of the project documents in conjunction with preferred alternates for board approval if necessary.



### **Construction Documents**

- Update and coordination meetings with owner and design team – Bi-Weekly or as needed.
  - Discuss initial topics, open and action items, new items, design related items, Owner related items, preconstruction and construction related items. Schedule updates and constant budget impact discussions.
- Start prequalifying trade contractor.
- Schedule Project Outreach and Information meetings.
- Schedule updates and coordination of Long Lead materials and components.
- Construction document budget update and estimate.
  - Quantity take-off and unit cost pricing analysis.
  - Verify value engineering from design development and create, analyze, and agree on new ideas.
    - Design quality control and/or VE workshop with owner and designer.
  - Clarifications to estimate.
  - Perform quality control review of construction documents.
  - Conduct estimate review meeting and refine cost estimate based on feedback.
- Constructability review and verification of Design Development Constructability review items.
- Start creating the detailed construction schedule milestones.
- Finalize the Site Logistics and Phasing Plans.
- Finalize BIM visualization documents and secondary clash detection analysis.
- Coordinate a Site-Specific Safety Plan with Chris Gates – Edifice Corporate Safety Director.
- Edifice will identify and track preferred alternates the owner and project have deemed necessary.
- Edifice will assist with preparation of the project documents in conjunction with preferred alternates for board approval if necessary.

### **Prequalification of Trade Contractors**

- Establish a prequalification process to ensure that all County prequalification policies are adhered to, and project-specific criteria is included.
- Advertise trade package opportunities for those interested in prequalifying to bid the project.
  - Occurs at end of Design Development and/or beginning of Construction Documents.
- Edifice will work with the County & LS3P on the Prequalification process making sure all policies are followed and project specific criteria is included.
  - Outreach Sessions will be held to help advertise and promote interest in the project.
  - Describe prequalification process at Outreach Sessions.
  - Target local qualified subcontractor participation.
- The school district and Edifice will work together to develop the list of Prequalified Trade Contractors in concert with the G.S. 143-135.8 Prequalification and 143-128.1 Construction Management at Risk Contracts.
- All County requirements for MWBE or HUB participation will be followed.
- Get approval from the project team and the Prequalification Committee (if applicable) for recommended prequalified bidders.
- Only pre-qualified trade contractors will be allowed to bid the project.
- Create and establish the formal and informal trade packages for bidding.

### **Public Bid Process**

- Advertise the project for bid to all prequalified trade contractors.
- Create a Bid Package Manual outlining scopes of work for each trade package and instructions to bidders applicable to the project.
- Conduct an open, competitive public bid process for all trade packages.
- Offer and provide Minority, MWBE, and/or HUB firms assistance during the bidding phase
- Notify Prequalified Bidders of pre-bid meeting and bid date.
- Conduct Pre-Bid meeting.
- Hold the bid opening in a public location at a County facility or on a Project Team location.
- Provide feedback to any unsuccessful bidders.



- Edifice will work in concert with the County and the Designers on all the necessary requirements related to the bid opening.
- G.S. 143-129 Procedure for Letting of Public Contracts will be followed.
- All requirements for Minority, MWBE and/or HUB participation will be followed.
- Post Bid meetings with all apparent low, responsive, responsible trade contractors will be held to determine the authenticity and accuracy of bids.
- Award 1st Tier Contracts and engage in the contract process.
- Report actual Minority, MWBE and/or HUB participation vs. Goals.
- Report actual Local participation numbers internally to the school district/County as requested.
- Manage bid tab to include all necessary project preferred alternates.

**Guaranteed Maximum Price Amendment(s)**

- Once Post Bid Meetings are finalized and apparent low bidders are determined, a Guaranteed Maximum Price (GMP) Proposal will be put together.
- The GMP Proposal will then become part of the Guaranteed Maximum Price Amendment to the original contract.

**Contract**

- The AIA A133 – 2019 Standard Form of Agreement Between Owner and Construction Manager as Constructor along with the AIA A201 – 2017 General Conditions of the Contract for Construction are being utilized.
- The value of Preconstruction Services will be the initial contract value. Construction services will be added when the Guaranteed Maximum Price is determined through an Amendment to the contract.



**Exhibit D**  
**Preconstruction Services Fee Estimate**  
**March 19, 2026**

| Project  |  |           |                        |                      |               |
|--|--|-----------|------------------------|----------------------|---------------|
| <b>Henderson County Public Schools Bus Garage</b>    |  |           | <b>Start Date</b>      | <b>April 2026</b>    |               |
|  |  |           | <b>Completion Date</b> | <b>November 2026</b> |               |
|  |  |           | <b>Budget Estimate</b> | <b>\$10,000,000</b>  |               |
| Personnel Activates                                  |  |           |                        |                      |               |
| Schematic Design                                     |  | Man-hours | Rate                   | Labor                |               |
| Vice President of Preconstruction                    |  | 10        | \$ 144.00              | \$ 1,440             |               |
| Market Leader  |  | 20        | \$ 138.00              | \$ 2,760             |               |
| Preconstruction Manager                              |  | 60        | \$ 115.00              | \$ 6,900             |               |
| Construction Manager                                 |  | 20        | \$ 132.00              | \$ 2,640             |               |
| Subtotal   |  | 100       |                        | \$ 12,300            |               |
| Design Development                                   |  | Man-hours | Rate                   | Labor                |               |
| Vice President of Preconstruction                    |  | 10        | \$ 144.00              | \$ 1,440             |               |
| Market Leader  |  | 20        | \$ 138.00              | \$ 2,760             |               |
| Preconstruction Manager                              |  | 60        | \$ 115.00              | \$ 6,900             |               |
| Construction Manager                                 |  | 20        | \$ 132.00              | \$ 2,640             |               |
| Project Manager                                      |  | 40        | \$ 115.00              | \$ 4,600             |               |
| Subtotal   |  | 140       |                        | \$ 16,900            |               |
| Complete CD's  |  | Man-hours | Rate                   | Labor                |               |
| Market Leader  |  | 20        | \$ 138.00              | \$ 2,760             |               |
| Preconstruction Manager                              |  | 60        | \$ 115.00              | \$ 6,900             |               |
| Construction Manager                                 |  | 20        | \$ 132.00              | \$ 2,640             |               |
| Project Manager                                      |  | 80        | \$ 115.00              | \$ 9,200             |               |
| Subtotal   |  | 180       |                        | \$ 21,500            |               |
| Bid Documents and Bidding                            |  | Man-hours | Rate                   | Labor                |               |
| Market Leader  |  | 20        | \$ 138.00              | \$ 2,760             |               |
| Preconstruction Manager                              |  | 60        | \$ 115.00              | \$ 6,900             |               |
| Construction Manager                                 |  | 20        | \$ 132.00              | \$ 2,640             |               |
| Project Manager                                      |  | 40        | \$ 115.00              | \$ 4,600             |               |
| Preconstruction Assistant                            |  | 20        | \$ 60.00               | \$ 1,200             |               |
| Subtotal   |  | 160       |                        | \$ 18,100            |               |
| Services Cost Recap                                  |  |           |                        |                      |               |
| Personnel Activity Summary                           |  | Man-hours | Days                   | Labor                | Personnel     |
| Schematic Design Development                         |  | 100       | 13                     | \$ 12,300            | 5             |
| Design Development                                   |  | 140       | 18                     | \$ 16,900            | 6             |
| Complete CD's  |  | 180       | 23                     | \$ 21,500            | 6             |
| Bid Documents and Bidding                            |  | 160       | 20                     | \$ 18,100            | 6             |
| Subtotal   |  | 580       | 73                     | \$ 68,800            | 23            |
| Pre-construction Summary                             |  |           |                        |                      |               |
| Total Labor  |  |           |                        | \$                   | 68,800        |
| Allowance for Site Existing Conditions Investigation |  |           |                        |                      | \$10,000      |
| <b>Total Preconstruction Services Fee</b>            |  |           |                        | <b>\$</b>            | <b>78,800</b> |