



TUPELO REGULAR CITY COUNCIL MEETING

MARCH 17, 2020 AT 6:00 PM
COUNCIL CHAMBERS | CITY HALL

AGENDA

INVOCATION: COUNCILMAN LYNN BRYAN

PLEDGE OF ALLEGIANCE: COUNCILMAN TRAVIS BEARD

CALL TO ORDER: COUNCILWOMAN NETTIE DAVIS

CONFIRMATION OR AMENDMENT TO THE AGENDA AND AGENDA ORDER

PROCLAMATIONS, RECOGNITIONS AND REPORTS AGENDA

1. IN THE MATTER OF RECOGNITION OF BOY/GIRL SCOUTS
2. IN THE MATTER OF 2020 PROCLAMATION FOR RED CROSS
3. IN THE MATTER OF RECOGNITION OF SUNTANNA ANDRESS WITH LIFESAVERS
4. IN THE MATTER OF EMPLOYEE RECOGNITION(S)
5. IN THE MATTER OF PUBLIC RECOGNITIONS
6. IN THE MATTER OF MAYOR'S REMARKS

(CLOSE REGULAR MEETING OPEN PUBLIC AGENDA)

PUBLIC AGENDA

PUBLIC HEARINGS

APPEALS

CITIZEN HEARING

(CLOSE PUBLIC AGENDA AND OPEN REGULAR SESSION)

ACTION AGENDA

- [7.](#) IN THE MATTER OF EXECUTIVE ORDER 20-002
- [8.](#) IN THE MATTER OF EXECUTIVE ORDER 20-003

ROUTINE AGENDA

- [9.](#) IN THE MATTER OF MINUTES FROM REGULAR CITY COUNCIL MEETING
MARCH 7, 2020
- 10. IN THE MATTER OF REVIEW, PAY BILLS AND APPROVE UTILITY
ADJUSTMENTS
KH
- 11. IN THE MATTER OF ADVERTISING AND PROMOTIONAL EXPENSE LIST
KH
- [12.](#) IN THE MATTER OF PARK & REC ADVISORY BOARD MINUTES FEBRUARY 11,
2020
AF
- [13.](#) IN THE MATTER OF CONTRACT WITH ARCHITECTURE SOUTH FOR BEL AIRE
CENTER
AF
- [14.](#) IN THE MATTER OF BID 2020-002PW KNUCKLEBOOM TRUCK
CW
- [15.](#) IN THE MATTER OF SURPLUS DUTY WEAPON OF ROB EDWARDS UPON HIS
RETIREMENT
BA
- [16.](#) IN THE MATTER OF REQUEST TO ACCEPT DONATED VEHICLE FOR POLICE
DEPARTMENT
BA
- [17.](#) IN THE MATTER OF DECLARING SURPLUS PD
BA
- [18.](#) IN THE MATTER OF PROJECT SOLUTION EXPRESS EMPLOYMENT CONTRACT
DL
- [19.](#) IN THE MATTER OF BID 2019-017CO SITE IMPROVEMENTS BID
TH

- [20.](#) IN THE MATTER OF BID 2019-018CO STRUCTURAL CONCRETE
TH
- [21.](#) IN THE MATTER OF BID 2019-019CO MASONRY
TH
- [22.](#) IN THE MATTER OF 2019-020CO STRUCTURAL STEEL
TH
- [23.](#) IN THE MATTER OF BID 2019-021CO ROOFING
TH
- [24.](#) IN THE MATTER OF BID 2019-022CO GLASS AND GLAZING
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- [25.](#) IN THE MATTER OF BID 2019-024CO GENERAL WORKS
TH
- [26.](#) IN THE MATTER OF BID 2019-025CO FLOORING
TH
- [27.](#) IN THE MATTER OF BID 2019-026CO FIRE PROTECTION
TH
- [28.](#) IN THE MATTER OF BID 2019-027CO MECHANICAL AND PLUMBING
TH
- [29.](#) IN THE MATTER OF BID 2019-028CO ELECTRICAL
TH
- [30.](#) IN THE MATTER OF BID 2019-040CO DRYWALL AND PAINT REBID
TH
- [31.](#) IN THE MATTER OF EMERGENCY PURCHASE REQUEST FOR TUPELO WATER &
LIGHT DEPARTMENT
JT
- [32.](#) IN THE MATTER OF SOLE SOURCE PROCUREMENT REQUEST FROM TWL
JT
- [33.](#) IN THE MATTER OF JANUARY 13, 2020 MAJOR THOROUGHFARE MINUTES
PF
- [34.](#) IN THE MATTER OF PUBLIC HEARING FOR DEMOLITION

[35.](#) IN THE MATTER OF RESOLUTION FOR THRASH GROUP
BL

[36.](#) IN THE MATTER OF CONTRACT WITH PRYOR MORROW FOR FIRE STATION 2
TW

[37.](#) IN THE MATTER OF PUBLIC WORKS SURPLUS
CW

(CLOSE REGULAR SESSION)

STUDY AGENDA

EXECUTIVE SESSION

E1. IN THE MATTER OF PURCHASE OF PROPERTY

E2. IN THE MATTER OF SALE OF PROPERTY

ADJOURNMENT



CITY OF TUPELO CITIZEN
HEARING REQUEST
COUNCIL CLERK, 662.840-2578 EMAIL: Missy.Shelton@tupeloms.gov

Any citizen of the City, business owner or property owner within the City may request that a matter be placed on the agenda for the purpose of bringing the matter before the City Council for subsequent Council action provided that he or she submits a written and signed request to the Council President or the Mayor describing the nature of his or her request. Such request must be received before 5:00 P.M. on Thursday prior to the next scheduled Council meeting. The presentation of a citizen's request shall be limited to (5) minutes.

Name: Suntanna Andrews Phone: (662) 871-7996

Street Address: 1007 Gulkford St Apt. 1

City, state, zip: Tupelo MS 38801

BUSINESS OWNER:

Business Name: Life Saver Girls Group

PROPERTY OWNER:

Address: same

PLEASE DESCRIBE THE NATURE OF YOUR REQUEST:

Life Saver girls empowerment group is looking for partnership, volunteer opportunities, and a meeting location.

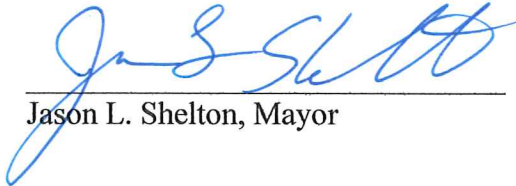
SIGNATURE: S. Andrews

Forms may be faxed to the Council Clerk's office, 662.840-2075 or scanned and emailed to Missy.Shelton@tupeloms.gov Forms must be signed and returned to the Council office by the agenda deadline.

EXECUTIVE ORDER 20-002

As a preventative measure against the coronavirus threat, I, Jason Shelton, Mayor of the City of Tupelo, pursuant to my authority as the chief executive officer of the city, hereby issue this executive order postponing all Police Athletic League and Park and Recreation events held by or sponsored by the City of Tupelo until March 31, 2020, unless otherwise specified. A detailed list will be distributed on an event-by-event basis.

So ordered, this the 12th day of March, 2020.



Jason L. Shelton, Mayor

ATTEST:

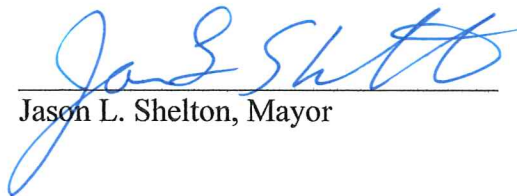


Kim Hanna, CFO/City Clerk

EXECUTIVE ORDER 20-003


As a preventative measure against the coronavirus threat, I, Jason Shelton, Mayor of the City of Tupelo, pursuant to my authority as the chief executive officer of the city, hereby issue this executive order to all facilities which host overnight travelers to abstain from serving any self-serve breakfast buffet. Replacement suggestions are a breakfast go-bag or a served breakfast.

So ordered, this the 12th day of March, 2020.



Jason L. Shelton, Mayor

ATTEST:



Kim Hanna, CFO/City Clerk

REGULAR CITY COUNCIL MEETING

MUNICIPAL MINUTES CITY OF TUPELO

STATE OF MISSISSIPPI

MARCH 03, 2020

PRESENT

Councilman Markel Whittington
Councilman Lynn L Bryan
Councilman Travis Beard
Councilwoman Nettie Davis
Councilman Buddy Palmer
Councilman Mike M Bryan
Councilman Willie Jennings

INVOCATION:

Dr. Richard Price opened the meeting with the Invocation.

PLEDGE OF ALLEGIANCE:

Colonel Bill Allen led in the Pledge of Allegiance.

CALL TO ORDER:

Council President Nettie Davis called the meeting to order at 6:00 PM.

IN THE MATTER OF CONFIRMATION OR AMENDMENT TO THE AGENDA AND AGENDA ORDER

Councilman M Bryan moved, seconded by Councilman Whittington to confirm the agenda and agenda order. The motion passed 7-0.

PROCLAMATIONS, RECOGNITIONS AND REPORTS AGENDA

IN THE MATTER OF RECOGNITION OF BOY/GIRL SCOUTS

No Scouts were present.

IN THE MATTER OF PROCLAMATIONS

No proclamations

IN THE MATTER OF EMPLOYEE RECOGNITIONS

Ruth Fondon was recognized by the Mayor for the wonderful organization of tonight's presentation as well as for the article written in the February 13, 2020, Lee County Courier where she was recognized for the much needed role of being the 'voice of reason' in the Mayor's office.

IN THE MATTER OF PUBLIC RECOGNITIONS

Councilman Jennings invited everyone to attend the self-defense and human trafficking seminar at Haven Acres on March 7 from 9:00 - 12:00.

Councilman Beard reminded everyone of the Empty Bowls luncheon tomorrow, March 4, 2020, at the Tupelo Furniture Market. He also reminded everyone of the Keep Tupelo Beautiful Challenge and the '10 for Tupelo' which will be on March 23.

Councilwoman Davis reminded everyone that this is the Lenten Season, leading up to Easter and we should be willing to give up things we don't need.

IN THE MATTER OF MAYOR'S REMARKS

Mr. Don Lewis, COO, introduced a new section of the 'State of the City' event which will include the 'State of the Schools'. He welcomed Avery Tate, a member of the Mayor's Youth Council to speak to the group. To end her presentation, she introduced Mayor Jason Shelton, who then presented the 'State of the City' address. **APPENDIX A**

STATE OF THE CITY 2020

(CLOSE REGULAR MEETING OPEN PUBLIC AGENDA)

PUBLIC AGENDA

IN THE MATTER OF PUBLIC HEARING FOR DEMOLITION

There was no one present for the scheduled Public Hearing on demolitions. Attorney Ben Logan, as a point of order, told the Council that the items of the public hearing would not be acted on until March 17, 2020, Council meeting.

IN THE MATTER OF APPEALS

None

IN THE MATTER OF CITIZEN HEARING(S)

None

(CLOSE PUBLIC AGENDA AND OPEN REGULAR SESSION)

ACTION AGENDA

ROUTINE AGENDA

IN THE MATTER OF FEBRUARY 18, 2020 REGULAR CITY COUNCIL MEETING MINUTES

Councilman M Bryan moved, seconded by Councilman Jennings, to approve the minutes of the regular Council meeting held on February 18, 2020. The motion passed 7-0. **APPENDIX B**

IN THE MATTER OF REVIEW, PAY BILLS AND APPROVE UTILITY ADJUSTMENTS

Bills were reviewed at 4:30 PM by Council members: Whittington, Beard, Davis, M Bryan, Jennings and Accounts Payable Traci Dillard. Councilman Palmer moved, seconded by Councilman L Bryan, to approve the payment of the checks, bills and claims, as presented. The motion passed 7-0.

APPENDIX C

IN THE MATTER OF ADVERTISING AND PROMOTIONAL EXPENSE LIST

Councilman M Bryan moved, seconded by Councilman Palmer, to approve the advertising and promotional expense list as presented. The motion passed 7-0. **APPENDIX D**

IN THE MATTER OF BID NO. 2020-001WL

Councilman Whittington moved, seconded by Councilman Jennings, to approve Bid No. 2020-001WL Elevated Water Storage Tank Repair and Repaint (Nelle Street) to the lowest and best bid submitted by Stephens TPS, Inc., in the amount of \$395,970.00. The motion passed 7-0. **APPENDIX E**

IN THE MATTER OF RESOLUTION AUTHORIZING AND DIRECTING THE ISSUANCE OF A GENERAL OBLIGATION BOND SERIES 2020

Councilman Whittington moved, seconded by Councilman Beard, to approve a Resolution Authorizing and Directing the Issuance of a General Obligation Bond Series 2020. The motion passed 7-0.

APPENDIX F

IN THE MATTER OF SURPLUS FROM PARK AND RECREATION DEPARTMENT

Councilman Beard moved, seconded by Councilman L Bryan, to declare certain items as surplus, no longer needed for use by the City and sell at auction or scrap, as submitted by Alex Farned on behalf of the Park and Recreation Department and the Aquatic Center. The motion passed 7-0. **APPENDIX G**

(CLOSE REGULAR SESSION)

STUDY AGENDA

EXECUTIVE SESSION

ADJOURNMENT

Councilman Beard moved, seconded by Councilman Whittington, to adjourn the meeting at 7:10 PM. The motion passed 7-0.

Nettie Davis, President
City Council

ATTEST:

Missy Shelton, Clerk of the Council

Jason Shelton, Mayor



AGENDA REQUEST

TO: Mayor and City Council
FROM: Deana Carlock, Office Manager
DATE 03/11/2020
SUBJECT: MINUTES FOR PARKS ADVISORY MEETING

Request:

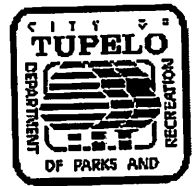
Requests that the February 11, 2020 Parks Advisory Board meeting minutes go onto Agenda.

Attachments:

- A. February 11, 2020 Parks Advisory Board meeting minutes



Parks Advisory Board and
Sports Council Meeting
February 11, 2020



Advisory Members Present

Robin Faucette, Ward 1
Mike Maynard, Ward 2
Davey Cole, Ward 5
Jim Ingram, President TSC

Advisory Member Absent

Jack Keene, Ward 3
Boyce Grayson, Ward 4
Vacant, Ward 6
Vacant, Ward 7

Staff Present

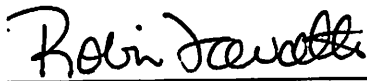
Alex Farned, Director
Deana Carlock, Office Manager
Amy Kennedy, Aquatic Director
Alex Wilcox, Senior Recreation Athletic Director
Leigh Ann Mattox, Recreation Director
Laura Kramer, Sports Director
Ben Haas, Sports Director
Leesha Faulkner, Oren Dunn Museum Curator
Marcus Gary, Community Outreach Coordinator

Staff Absent

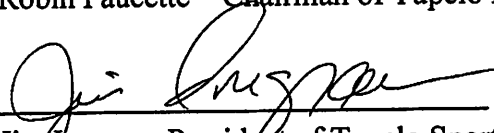
Shanta Jones, Program Director
Markel Whittington, Council Rep

1. Robin Faucette called the meeting to order.
2. Mike Maynard made the motion to accept the agenda with Jim Ingram making the second. Passed unanimously.
3. Mike made the motion to accept the minutes with Jim making the second. Pass unanimously.
4. Mike made the motion accept the treasurer's report with Jim making the second. Pass unanimously.
5. Member Reports
 - a. Tupelo Youth Soccer Association – Report received.
 - b. Tupelo Youth Baseball Association – Report received.
 - c. Tupelo Softball Association – Report received.
 - d. Tupelo Basketball Association – Report received.
 - e. Tupelo Tennis Association – Report received.
 - f. Tupelo Therapeutic Recreation Association – Report received.
 - g. Tupelo Aquatic Club – Report received.
 - h. Tupelo Disc Golf Association – Report received.
 - i. Tupelo Skate Park Association – Report received.
 - j. Tupelo Flag Football Association – Report received.
 - k. Friends of the Park – Report received.
 - l. Tupelo Fourth of July Celebration Association – Report received.
 - m. Veterans Council – Report received.
 - n. Tournament – Report received.

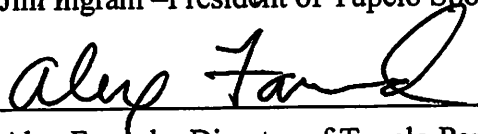
- o. Marketing – Report received.
 - p. Monthly Participation - Report Received
6. The Board was updated on the progress of the 13 turf fields.
 7. The Board was updated on the cameras in the park.
 8. The Board was updated on the Bel Air Renovations.
 9. The Board was updated on the dock and restrooms at Veterans Memorial.
 10. The Board was updated on the lights at Rob Leake City Park.
 11. Mike made a motion to adjourn with Jim making the second. Pass unanimously.



Robin Faucette – Chairman of Tupelo Parks Advisory Board



Jim Ingram –President of Tupelo Sports Council



Alex Farned – Director of Tupelo Parks and Recreation



AGENDA REQUEST

TO: MAYOR AND CITY COUNCIL
FROM: BEN M. LOGAN, CITY ATTORNEY
DATE MARCH 10, 2020
SUBJECT: AGENDA ITEMS

Request:

ROUTINE AGENDA

REVIEW/ACCEPT ARCHITECTURAL CONTRACT WITH PRYOR MORROW FOR THE BUILDING OF FIRE STATION 2

REVIEW/ACCEPT ARCHITECTURAL CONTRACT WITH ARCHITECTURE SOUTH FOR THE REMOVAL AND REBUILDING OF THE BEL-AIRE CENTER

REVIEW/ACCEPT FIVE YEAR RENTAL CONTRACT WITH RJ YOUNG FOR COPY MACHINE LOCATED IN ADMINISTRATION

EXECUTIVE SESSION

PURCHASE OF REAL PROPERTY

Attachments:

Will be forwarded.

DRAFT AIA® Document B101™ – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the «29th» day of «January» in the year «2020»
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

«City of Tupelo»
«Parks and Recreation Department»
655 Rutherford Road
«Tupelo, MS 38801»
«PH: 662-841-6440»
« »

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

«ArchitectureSouth, PA»
«330 West Jefferson Street»
«Tupelo, MS 38804»
«PH: 662-844-5843»
« »

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

«Bel Air Center»
«Tupelo, MS»
«New Construction»

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

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

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

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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.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

«New construction»

§ 1.1.2 The Project's physical characteristics:

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

«Unknown at time of execution»

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

«TBD »

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

.1 Design phase milestone dates, if any:

«Unknown at time of execution»

.2 Construction commencement date:

«Unknown at time of execution»

.3 Substantial Completion date or dates:

«Unknown at time of execution»

.4 Other milestone dates:

«Unknown at time of execution»

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

«Competitive bid »

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

«N/A»

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

«Mr. Alex Farned, Director, Parks and Recreation»

« »
« »
« »
« »
« »

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

« »

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

«To be determined »« »

« »
« »

« »
« »

.2 Civil Engineer:

«To be determined »« »

« »

« »

« »

« »

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

«To be determined »

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

«Linda E. Smith, RA»

«Terri S. Williams, AIA»

« »

« »

« »

« »

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

«Bobby Jenkins, P.E.»

«Jenkins Engineering, Inc.»

«185 Timberlane Drive»

«Tupelo, MS 38801 »

« »

« »

.2 Mechanical Engineer:

«Chad Moore»

«Engineering Resource Group»

«350 Edgewood Terrace Drive»

«Jackson, MS 39206»

« »

« »

.3 Electrical Engineer:

«Mike Wynne»

«Schultz & Wynne»

«4523 Office Park Drive»

«Jackson, MS 39206»

« »

« »

§ 1.1.11.2 Consultants retained under Supplemental Services:

«To be determined by the Owner »

§ 1.1.12 Other Initial Information on which the Agreement is based:

«Unknown at time of execution»

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

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

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§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than ~~«One Million»~~ (\$ ~~«1,000,000»~~) for each occurrence and ~~«Two Million»~~ (\$ ~~«2,000,000»~~) in the aggregate for bodily injury and property damage.

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

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, 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.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than ~~«Five Hundred Thousand»~~ (\$ ~~«500,000»~~) each accident, ~~«Five Hundred Thousand»~~ (\$ ~~«500,000»~~) each employee, and ~~«Five Hundred»~~ (\$ ~~«500,000»~~) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than ~~«One Million»~~ (\$ ~~«1,000,000»~~) per claim and ~~«One Million»~~ (\$ ~~«1,000,000»~~) in the aggregate.

~~§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect 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 Architect'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.~~

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§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The 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 Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;

- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

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

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

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

rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The

Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	
§ 4.1.1.6 Building Information Model management responsibilities	
§ 4.1.1.7 Development of Building Information Models for post construction use	
§ 4.1.1.8 Civil engineering	
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 Architectural interior design	
§ 4.1.1.11 Value analysis	
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 On-site project representation	
§ 4.1.1.14 Conformed documents for construction	
§ 4.1.1.15 As-designed record drawings	
§ 4.1.1.16 As-constructed record drawings	
§ 4.1.1.17 Post-occupancy evaluation	
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	
§ 4.1.1.20 Architect's coordination of the Owner's consultants	
§ 4.1.1.21 Telecommunications/data design	
§ 4.1.1.22 Security evaluation and planning	
§ 4.1.1.23 Commissioning	
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Fast-track design services	
§ 4.1.1.26 Multiple bid packages	
§ 4.1.1.27 Historic preservation	
§ 4.1.1.28 Furniture, furnishings, and equipment design	
§ 4.1.1.29 Other services provided by specialty Consultants	
§ 4.1.1.30 Other Supplemental Services	

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

«Unknown at time of execution-»

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

«Unknown at time of execution»

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 ~~«Two»~~ (~~«2»~~) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 ~~« »~~ (~~« »~~) visits to the site by the Architect during construction
- .3 ~~«Two»~~ (~~«2»~~) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 ~~«Two»~~ (~~«2»~~) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within ~~«Thirty-Six»~~ (~~«36»~~) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe 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.

§ 5.5 The Owner 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.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 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.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the

Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

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

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

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box.)

☒ Arbitration pursuant to Section 8.3 of this Agreement

☐ Litigation in a court of competent jurisdiction

☐ Other: (Specify)

« »

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

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

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

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

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

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

~~«\$1,000 for Administrative costs incurred»~~

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

~~«To be determined upon Owner's request»~~

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

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

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)

«-»

.2 Percentage Basis
(Insert percentage value)

«Six-» («6-») % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 Other
(Describe the method of compensation)

«-»

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

«N/A-»

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

«2020 Hourly Rate Schedule (Attached)-»

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus «-» percent («-»%), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

«1.5% of consultants services fees to cover administrative costs and architect's coordination for additional service-»

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	«Fifteen-»	percent (	«15-»	%)
Design Development Phase	«Fifteen-»	percent (	«15-»	%)
Construction Documents Phase	«Forty-five-»	percent (	«45-»	%)
Procurement Phase	«Five-»	percent (	«5-»	%)
Construction Phase	«Twenty-»	percent (	«20-»	%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. (If applicable, attach an exhibit of hourly billing rates or insert them below.)

«2020 Hourly Rate Schedule (Attached)»

Employee or Category	Rate (\$0.00)
----------------------	---------------

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus «Zero» percent («0» %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

«Unknown at time of execution»

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of «Zero» (\$ «0») shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of «N/A» (\$ « ») shall be made upon execution of this Agreement for registration fees and other fees payable to the

Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid «Forty-five» («45») 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 Architect.
(Insert rate of monthly or annual interest agreed upon.)

« The applicable interest rate under State of Mississippi Law » % « »

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

« »

ARTICLE 13 SCOPE OF THE AGREEMENT

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

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

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

« »

- .3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

[« »] AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

« »

[« »] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

« »

- .4 Other documents:
(List other documents, if any, forming part of the Agreement.)

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«2020 Hourly Rate Schedule (Attached)»

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

OWNER (Signature)

«Alex Farned» «Director, Parks and Recreation»
(Printed name and title)

ARCHITECT (Signature)

«Terri S. Williams» «Principal in Charge»
(Printed name, title, and license number, if required)

TERRI S. WILLIAMS



AGENDA REQUEST

TO: Mayor and City Council

FROM: Chuck Williams

DATE 02/26/2020

SUBJECT: BID APPROVAL

Request –

Approval to purchase complete knuckleboom truck – Bid 2020-002PW

Attached –

Memo and Bid Documents



Public Works Department Memorandum

To: Mayor Shelton and City Council

From: Mr. Chuck Williams

VIA: Don Lewis
Kim Hanna

Re: Bid approval

Date: 02/26/2020

Copy: Missy Shelton

Bid Openings: 02/24/2020 10:00 a.m.

2020-002PW

Attendance:
Traci Dillard Finance Dept

2020-002PW Fully Assembled Knuckle Boom Truck: Two bidders responded. We recommend that Tag Truck Center be approved as the lowest and best bid for a fully assembled knuckle boom truck. \$159,000.00

Title:	2020-002PW COMPLETE KNUCKLEBOOM TRUCK
Agency:	Mississippi > City of Tupelo
Start date:	24-Feb-2020 10:00:00 AM
End date:	24-Feb-2020 10:30:00 AM

BidID	Username	Bid Amount	Bid Submittal Date/Time	First Name	Last Name	Company name	Email Address	Phone Number
38961	TAG1	159000.0000	24-Feb-2020 10:19:06 AM	John	Foster	TAG Truck Center	tfoster@tagtruckcenter.com	6628718897
38960	SummitTupelo	159800.0000	24-Feb-2020 10:18:50 AM	Bruce	Underwood	Summit Truck Group	bruce.underwood@summittruckgroup.com	6628423401
38959	TAG1	160000.0000	24-Feb-2020 10:18:38 AM	John	Foster	TAG Truck Center	tfoster@tagtruckcenter.com	6628718897
38958	SummitTupelo	160500.0000	24-Feb-2020 10:18:28 AM	Bruce	Underwood	Summit Truck Group	bruce.underwood@summittruckgroup.com	6628423401
38957	TAG1	161000.0000	24-Feb-2020 10:17:46 AM	John	Foster	TAG Truck Center	tfoster@tagtruckcenter.com	6628718897
38956	SummitTupelo	162000.0000	24-Feb-2020 10:17:37 AM	Bruce	Underwood	Summit Truck Group	bruce.underwood@summittruckgroup.com	6628423401
38955	TAG1	163000.0000	24-Feb-2020 10:17:27 AM	John	Foster	TAG Truck Center	tfoster@tagtruckcenter.com	6628718897
38954	SummitTupelo	164500.0000	24-Feb-2020 10:17:19 AM	Bruce	Underwood	Summit Truck Group	bruce.underwood@summittruckgroup.com	6628423401
38953	TAG1	165000.0000	24-Feb-2020 10:17:08 AM	John	Foster	TAG Truck Center	tfoster@tagtruckcenter.com	6628718897
38952	SummitTupelo	165250.0000	24-Feb-2020 10:16:53 AM	Bruce	Underwood	Summit Truck Group	bruce.underwood@summittruckgroup.com	6628423401
38951	TAG1	167000.0000	24-Feb-2020 10:16:28 AM	John	Foster	TAG Truck Center	tfoster@tagtruckcenter.com	6628718897
38950	SummitTupelo	168500.0000	24-Feb-2020 10:16:16 AM	Bruce	Underwood	Summit Truck Group	bruce.underwood@summittruckgroup.com	6628423401
38949	TAG1	170000.0000	24-Feb-2020 10:16:03 AM	John	Foster	TAG Truck Center	tfoster@tagtruckcenter.com	6628718897
38948	SummitTupelo	172000.0000	24-Feb-2020 10:15:55 AM	Bruce	Underwood	Summit Truck Group	bruce.underwood@summittruckgroup.com	6628423401
38947	TAG1	175000.0000	24-Feb-2020 10:15:37 AM	John	Foster	TAG Truck Center	tfoster@tagtruckcenter.com	6628718897
38946	SummitTupelo	176820.0000	24-Feb-2020 10:14:51 AM	Bruce	Underwood	Summit Truck Group	bruce.underwood@summittruckgroup.com	6628423401
38945	TAG1	179000.0000	24-Feb-2020 10:13:40 AM	John	Foster	TAG Truck Center	tfoster@tagtruckcenter.com	6628718897
38944	SummitTupelo	181520.0000	24-Feb-2020 10:00:39 AM	Bruce	Underwood	Summit Truck Group	bruce.underwood@summittruckgroup.com	6628423401

FORM A

**Submission Cover Letter
For
Un-priced Technical Proposal**

**COMPLETE KNUCKLEBOOM TRUCK
Bid # 2020-002PW**

The undersigned proposes to provide a Complete Knuckleboom Truck as per the specifications provided by the City of Tupelo and the subsequent proposal from the bidder named below.

If the City of Tupelo invites TAG Truck Center (company name) to submit priced bids in response to this submission, we intend to participate by

☒ Online Reverse Auction, pending receipt of required id and password from Central Bidding.

Contact information for any questions regarding this submission:


Tommy Foster 662-871-8897

TAG Truck Center (company name) understands that we only have one opportunity to submit an un-priced technical proposal. We affirm that we have read and understood this request for un-priced technical proposals and understand that Phase Two must be completed before the project is awarded. We understand that any missing information or documents required by the BID may be cause for rejection of the proposal.

We acknowledge that the City of Tupelo has the sole discretion and authority to determine whether our proposed commodity meets the specifications issued and also if it will meet the requirements and needs of the City of Tupelo Public Works Department in performing their assigned daily tasks. We understand that the City of Tupelo may or may not invite our participation in Phase Two (REVERSE AUCTION-Priced Bids) of this procurement.

If we are invited by the City of Tupelo to participate in Phase Two (REVERSE AUCTION-Priced Bids) of this procurement, the invitation should be directed to:

Printed Name: Tommy Foster Title: Sales

Signature:  Date: 2/12/20

Company Name: TAG Truck Center

Email: tommy.foster@tntx-truck.com

FORM B

Proposal Form

**COMPLETE KNUCKLEBOOM TRUCK
Bid # 2020-002PW**

The undersigned proposes to furnish a Complete Knuckleboom Truck, which meets the specifications provided. The undersigned certifies that the minimum specifications, terms and conditions contained in this BID have been considered and understood. By submitting a proposal, I/We do certify that the commodities offered do meet the specifications contained in this Invitation to Bid.

Please check '✓' each line item – confirming specifications listed will be met.

CHASSIS SPECIFICATIONS		YES	NO
GVWR	Minimum 56,000 LB	✓	
CT Dimension	206" Or To Body Manufacturers Specification	✓	
After Frame Dimension	108" Or To Body Manufacturers Specification	✓	
Frame Rails	Section Modulus -16.979 Minimum 2,030,000 RBM	✓	
Engine	In Line 6 Cylinder Wet Sleeved Diesel Engine, Minimum 300 HP with Minimum 860 LB/FT Torque	✓	
Transmission	Fully Automatic 6 Speed With Double Overdrive, Rated to 860 LB/FT Torque With PTO Provision (Automated Manual Transmissions Will NOT Be Accepted)	✓	
Front Axle	16,000# With Synthetic Axle Lube	✓	
Rear Axles	40,000# Single Speed - Ratio To Provide 60 MPH Synthetic Axle Lube	✓	
Brakes	Front: 16.5" X 6.0" With Automatic Slack Adjusters Rear: 16.5" X 7.0" With Automatic Slack Adjusters	✓	
Brake System	Dual Air System For Straight Truck Air Brake ABS With Traction Control Air Dryer With Heater Automatic Drain Valve For Air Tanks Minimum 18.7 CFM Air Compressor	✓	

Warranty	List Manufacturer's Standard Warranty For The Following Components 1. Standard Chassis 2. Engine 3. After-Treatment System 4. Transmission	24/MONTHS 2/250 2/250 3/MONTHS	
Optional Extended Warranties	List Prices For Extended Warranty To 60 Months/100,000 Miles On The Following Components 1. Engine 2. Transmission 3. After Treatment System	1,600 592 590	
Manual and Specs	Factory specifications and literature will be included with the bid - operator's manual , parts book and service manual	✓	
LOADER AND GRAPPLE SPECIFICATIONS installed on Chassis complete			
		YES	NO
NET LIFTING MOMENT	92,200 ft. lbs.	✓	
CAPACITY & REACH	9,040 lbs. @ 10'6,000 lbs. @ 15'4,480 lbs. @ 20'3,480 lbs. @ 25'3,000 lbs. @ full reach (26' 5")	✓	
HORIZONTAL REACH	26' 5"	✓	
MAIN & OUTER BOOM LENGTH - HORIZONTAL	21' 2"	✓	
EXTENSION LENGTH	5' 2"	✓	
CRANE RATING	Minimum HC1/HD4/B4	✓	
LOADER WEIGHT	5,280 lbs.	✓	
HYDRAULIC SYSTEM	Dual circuit control valve	✓	
	3,410 main system pressure	✓	
	21 GPM per circuit	✓	
	Dual high pressure filters	✓	
	Frame Mounted Hydraulic Tank	✓	

CRANE BASE & STABILIZERS	Crane base to have (2) bolt on top seat operator station access ladders	✓	
	Access ladders to have perforated grip strut tread rungs	✓	
	Ladders shall be KTL painted or approved equivalent (see KTL paint requirements in Paint section below)	✓	
	Stabilizers shall be of an "A-Frame" design with only an up & down function	✓	
	Stabilizer cylinder, inner and outer extension housings ("stabilizer assembly") shall be pinned to crane base such that the complete stabilizer assembly is easily removable for service of assembly components	✓	
	Stabilizers shall have a minimum spread of 10' 4"	✓	
TOP SEAT OPERATOR CONTROL STATION AND OPERATOR CONTROLS	Stabilizers shall be independently controlled from operator top seat control station	✓	
	Operator platform shall be surrounded by round steel handrail with hard shell to prevent damage to the seat, valve, hosing and operator	✓	
	Operator platform shall have four toggle switches within easy reach of operator that control lights on operator platform & outer boom, 4 each LED worklights (2 on the operators station and two on the outer boom), engine RPM +/-, heated operator seat	✓	
	Operator seat shall be slide adjustable front to back and have adjustable height padded armrests	✓	
	Operator controls shall consist of 2 joysticks and a single foot pedal	✓	
	Both joysticks shall fold down for travel and stow below armrests on operator seat	✓	
SLEWING SYSTEM	Swing lock pin to be easily accessible from operator platform area	✓	
	Minimum 14,010 ft lbs. net slewing torque	✓	
	360° continuous rotation	✓	
	Capable of 7 rotations per minute at full hydraulic flow	✓	
	Rotation function controlled by foot pedal at operator's station	✓	
	Locking pin to prevent rotation of boom while in transport	✓	
MAIN & OUTER BOOM	Double row rotation bearing with internally facing gear	✓	
	Main boom lift cylinder shall have a sliding steel guard to protect the cylinder load from damage	✓	
	Main boom section to have raised sides to create a protective recess for the steel hydraulic lines and hoses on the top of the main boom	✓	

	All line and hose connections on the top of the main boom shall be staggered and elevated off the top of the main boom structure for ease of service	✓	
	Steel lines on the top of the main boom shall be KTL painted (see KTL paint requirements in Paint section below)	✓	
	Loader shall have a linkage system between main and outer boom to provide a consistent rate of movement and load capacity throughout the arc of the loader's movement at a given horizontal reach. The load capacity at a given horizontal reach shall deviate more than 2.5% when evaluated at 0' vs. 10' elevation from ground level.	✓	
	Outer boom cylinder shall be mounted above the main and outer boom to help protect cylinder from contact with truck body and body debris	✓	
	All bushings in the arm system shall be bronze and incorporate grease channels to maximize lubrication and maintenance	✓	
	Outer boom shall be equipped with (2) LED work lights mounted to each side of the outer boom section. Each light shall have a steel protective enclosure. Lights shall be controlled via switch at top seat operator station.	✓	
EXTENSION SYSTEM			
	Extension cylinder, hoses and pipes shall be located inside the outer boom and extension sections. No external hoses, pipes or cylinders are acceptable.	✓	
	Extension system shall have adjustable wear pads and guide blocks	✓	
SUSPENSION LINK & ROTATOR			
	Suspension link shall be cast steel and have open center for routing of rotator hoses. Hose routing outside of the suspension link is not acceptable.	✓	
	Suspension link shall be of a dual pin design at the attachment points where the link attaches to the loader extension section	✓	
	Rotator shall be minimum 10-ton approved equal	✓	
	Rotator shall be capable of 360° continuous rotation	✓	
	Rotator shall have side and bottom ports	✓	
	Rotator shall have a bolt on steel guard plate covering the hose fitting connections and ports on the rotator	✓	
GRAPPLE			
	Clamshell, butt-style grapple	✓	
	42" wide jaws	✓	
	Bolt-on steel cutting edges for jaws	✓	
	64" open width	✓	

	6,744 ft. lbs. of closing force	✓	
	(2) cylinder open/close design	✓	
	Cylinders protected by steel plates underneath cylinders and grapple head above cylinders	✓	
	Bolt-on grapple head for easy servicing of cylinders and hydraulic components	✓	
	4,000 lbs. snap in load hooks on each side of grapple head	✓	
	Cylinder hoses routed through bottom ports on rotator and through top opening on grapple head assembly. Rotator side port hose routing not acceptable.	✓	
PAINT	Crane structural components and pipes shall be painted using "KTL" (or equal) process. KTL is an immersion painting process featuring cathoresis electrostatic coating.	✓	
	Crane components and pipes shall be blasted with wire shot and then treated in zinc phosphate solution. Primer	✓	
	shall be applied and baked. Top coat shall be powder coating with hardening by baking at 400 degrees	✓	
HYDRAULIC SYSTEM	Hotshift PTO with direct mount, tandem circuit hydraulic pump	✓	
	79 gallon steel hydraulic reservoir with in tank return filter and 2" shut off valve	✓	
	Frame mounted hydraulic oil cooler. Cooler shall be 26.8 HP with 20.0kW heat removal.	✓	
WARRANTY	Please State Warranty Coverage and Nearest Warranty Facility From City of Tupelo On Site Warranty Not Allowed, MUST Be Manufacturer's Certified Warranty Facility	✓	
Manual and Specs	Factory specifications and literature will be included with the bid - operator's manual , parts book and service manual	✓	
BRUSH BODY SPECIFICATIONS	Brush Body Installed on Chassis complete	✓	
		YES	NO
DIMENSIONS	Length 22' x Width 96" x Height 60"		
MAINFRAME	7" Structural Channel Main Frame, 4" Structural Channel Cross Members 12" On Center, 6" Structural Channel Outside Rail, 4" Structural Channel Posts 12" On Center, 7" Structural Channel Rear Posts, 6" Structural Channel Top Rail	✓	

FLOOR	Minimum 1/4" Steel Floor	✓	
SIDES/ BULKHEAD	60" Tall, Minimum 10 Gauge Steel for Sides and Bulkhead with 2" X 2" Double Brake On Top and 1" Single Brake On Bottom, 1/4" X 3" Across Bottom Of Posts	✓	
LIGHTING/MISC	LED Clearance Lights, LED Safety Flashers In Rear Posts, 2 Sets Of Mud Flaps, Back-Up Alarm, Reflectors, Primed And Painted Black	✓	
PAINT	Black, painted inside and out, rated for heavy duty industrial use, applied evenly, no runs	✓	
WARRANTY	Please State Warranty Coverage and Nearest Warranty Facility From City of Tupelo On Site Warranty Not Allowed, MUST Be Manufacturer's Certified Warranty Facility	✓	
		YES	NO
GENERAL BIDDER'S REQUIREMENTS	The City of Tupelo reserves the right to reject any and all bids, to waive informalities in the bid, or to award to whomsoever they may choose.	✓	
	A document is to be provided to the City of Tupelo by the winning bidder verifying that the order for this item has been placed with the manufacturer and clearly stating the date on which the order was placed, and when the build is anticipated to be completed.	✓	
	Delivery deadline to City of Tupelo Public Works Dept will be February 28, 2020.	✗	✓
	Bidder is to state details of all standard and extended Warranties furnished, including parts and labor for all components.	✓	
	Any warranty labor to be performed by the City of Tupelo mechanics is to be reimbursed by the bidder at the City of Tupelo's current labor rate.	✓	
	A telephone call by City of Tupelo Fleet Maintenance Personnel is to constitute sufficient notification for warranty service to the bidder for standard factory stock items and non-standard factory items.	✓	
	Transportation is to be furnished at bidder's expense for all warranty related work outside a 10 mile radius from City of Tupelo limits.	✓	

The City of Tupelo shall not be liable for any warranty related charges, payments, and billings. No warranty service and parts charges are to be invoiced to the City of Tupelo.	✓	
Parts and service availability are to be provided a minimum of	✓	
Chassis – 1 year	✓	
Engine – 2 years	✓	
Location of bidder's authorized parts and service facility is to be within 50 miles of the City of Tupelo.	✓	
All parts that are not specifically mentioned but which are necessary to provide a complete machine are to be included in the bid and shall conform in strength and quality to that which is provided in the trade in general.	✓	
Delivery - The successful bidder will deliver fully assembled truck, trash bed and boom to City of Tupelo – Public Works Department 604 Crossover Rd, Tupelo, MS 38801. The Bidder is to notify the City of Tupelo of any delays in delivery extending beyond two (2) weeks from the Final Anticipated Delivery Date stated in this document. Failure to coordinate major delays in delivery with the City of Tupelo designated personnel shall release the City of Tupelo of this purchase order contract.	✓	
A telephone call or written communication is to be provided to the City of Tupelo Fleet Management Division a minimum of five (5) days prior to delivery stating the anticipated date and time unit is to be delivered.	✓	
All items must be as specified or approved equal by the Director of the Public Works Department for the City of Tupelo.	✓	
The burden of proof of specifications is the responsibility of the bidder.	✓	

Signed: [Signature] Printed: Tommy Foster
Company: TAG Truck Center Title: Sales
Address: 2448 McCullough Blvd Belden, Ms 38826
Phone: (662) 871-8897 Fax: 662-680-4902 Email: tommy.foster@tnttruck.com

Please mark yes or no.....REQUIRED

Yes _____ No ✓

I will require technical assistance during the reverse auction process for the submission of my bid. This will require me to be at the Tupelo City Hall, Purchasing

Department, no less than 30 minutes prior to the beginning of the reverse auction process

VIII. PHASE TWO REQUIREMENTS (For Information Purposes Only)

The following form shall be used to document the online bids that a bidder enters into the system. The winning bidder shall be required to provide this sheet to match the final winning bid.

For Official Use Only

Approved for Invitation to Bid.....

Yes _____ No _____

Date: _____

Signature: _____

Prepared for:
Brandon White
City of Tupelo
604 Crossover Road
Tupelo, MS 38802
Phone: 6628416430

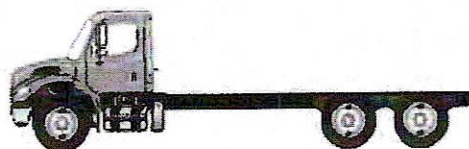
Prepared by:
Tommy Foster
TAG Truck Center
1650 E. Brooks Road
Memphis, TN 38116
Phone:

*A proposal for
City of Tupelo*

*Prepared by
TAG Truck Center
Tommy Foster*

Feb 12, 2020

Freightliner M2 106



Components shown may not reflect all spec'd options and are not to scale

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SPECIFICATION PROPOSAL

Data Code	Description	Weight Front	Weight Rear
Price Level			
PRL-23M	M2 PRL-23M (EFF:01/21/20)		
Data Version			
DRL-003	SPECPRO21 DATA RELEASE VER 003		
Vehicle Configuration			
001-172	M2 106 CONVENTIONAL CHASSIS	5,709	3,503
004-221	2021 MODEL YEAR SPECIFIED		
002-004	SET BACK AXLE - TRUCK		
019-002	STRAIGHT TRUCK PROVISION		
003-001	LH PRIMARY STEERING LOCATION		
General Service			
AA1-002	TRUCK CONFIGURATION		
AA6-001	DOMICILED, USA 50 STATES (INCLUDING CALIFORNIA AND CARB OPT-IN STATES)		
A85-002	PICKUP AND DELIVERY/SHORT HAUL SERVICE		
A84-1GF	GENERAL FREIGHT BUSINESS SEGMENT		
AA4-001	GENERAL FREIGHT COMMODITY		
AA5-002	TERRAIN/DUTY: 100% (ALL) OF THE TIME, IN TRANSIT, IS SPENT ON PAVED ROADS		
AB1-008	MAXIMUM 8% EXPECTED GRADE		
AB5-001	SMOOTH CONCRETE OR ASPHALT PAVEMENT - MOST SEVERE IN-TRANSIT (BETWEEN SITES) ROAD SURFACE		
995-091	MEDIUM TRUCK WARRANTY		
A66-99D	EXPECTED FRONT AXLE(S) LOAD : 16000.0 lbs		
A68-99D	EXPECTED REAR DRIVE AXLE(S) LOAD : 40000.0 lbs		
A63-99D	EXPECTED GROSS VEHICLE WEIGHT CAPACITY : 56000.0 lbs		
Truck Service			
AA3-001	DRY VAN BODY		
AF3-1W5	HOL MAC CORPORATION		

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Data Code	Description	Weight Front	Weight Rear
AF7-99D	EXPECTED BODY/PAYLOAD CG HEIGHT ABOVE FRAME "XX" INCHES : 32.0 in		
Engine			
101-22P	CUM L9 300 HP @ 2000 RPM, 2200 GOV RPM, 860 LB/FT @ 1300 RPM	OK 640	30
Electronic Parameters			
79A-075	75 MPH ROAD SPEED LIMIT		
79B-000	CRUISE CONTROL SPEED LIMIT SAME AS ROAD SPEED LIMIT		
79M-001	PTO MODE BRAKE OVERRIDE - SERVICE BRAKE APPLIED		
79P-002	PTO RPM WITH CRUISE SET SWITCH - 700 RPM		
79Q-003	PTO RPM WITH CRUISE RESUME SWITCH - 800 RPM		
79S-001	PTO MODE CANCEL VEHICLE SPEED - 5 MPH		
79U-007	PTO GOVERNOR RAMP RATE - 250 RPM PER SECOND		
80G-002	PTO MINIMUM RPM - 700		
80J-002	REGEN INHIBIT SPEED THRESHOLD - 5 MPH		
EA8-010	ENG PROT ON LOW COOLANT LEVEL - ENABLE		
Engine Equipment			
99C-017	2016-2019 ONBOARD DIAGNOSTICS/2010 EPA/CARB/FINAL GHG17 CONFIGURATION		
99D-011	2008 CARB EMISSION CERTIFICATION - CLEAN IDLE (INCLUDES 6X4 INCH LABEL ON LOWER FORWARD CORNER OF DRIVER DOOR)		
13E-001	STANDARD OIL PAN		
105-001	ENGINE MOUNTED OIL CHECK AND FILL		
133-004	ONE PIECE VALVE COVER		
014-099	SIDE OF HOOD AIR INTAKE WITH FIREWALL MOUNTED DONALDSON AIR CLEANER		
124-1D7	DR 12V 160 AMP 28-SI QUADRAMOUNT PAD ALTERNATOR WITH REMOTE BATTERY VOLT SENSE		
292-235	(2) DTNA GENUINE, FLOODED STARTING, MIN 2000CCA, 370RC, THREADED STUD BATTERIES	10	
290-017	BATTERY BOX FRAME MOUNTED		
281-001	STANDARD BATTERY JUMPERS		
282-001	SINGLE BATTERY BOX FRAME MOUNTED LH SIDE UNDER CAB		
291-017	WIRE GROUND RETURN FOR BATTERY CABLES WITH ADDITIONAL FRAME GROUND RETURN		

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Data Code	Description	Weight Front	Weight Rear
289-001	NON-POLISHED BATTERY BOX COVER		
87P-998	NO CAB AUXILIARY POWER WIRING		
107-032	CUMMINS TURBOCHARGED 18.7 CFM AIR COMPRESSOR WITH INTERNAL Safety VALVE		
108-002	STANDARD MECHANICAL AIR COMPRESSOR GOVERNOR		
131-013	AIR COMPRESSOR DISCHARGE LINE		
152-041	ELECTRONIC ENGINE INTEGRAL SHUTDOWN PROTECTION SYSTEM		
128-076	CUMMINS EXHAUST BRAKE INTEGRAL WITH VARIABLE GEOMETRY TURBO WITH ON/OFF DASH SWITCH	20	
016-1C3	RH OUTBOARD UNDER STEP MOUNTED HORIZONTAL AFTERTREATMENT SYSTEM ASSEMBLY WITH RH HORIZONTAL TAILPIPE		
28F-002	ENGINE AFTERTREATMENT DEVICE, AUTOMATIC OVER THE ROAD REGENERATION AND DASH MOUNTED REGENERATION REQUEST SWITCH		
239-001	STANDARD EXHAUST SYSTEM LENGTH		
237-052	RH STANDARD HORIZONTAL TAILPIPE		
23U-001	6 GALLON DIESEL EXHAUST FLUID TANK		
30N-003	100 PERCENT DIESEL EXHAUST FLUID FILL		
43X-002	LH MEDIUM DUTY STANDARD DIESEL EXHAUST FLUID TANK LOCATION		
23Y-001	STANDARD DIESEL EXHAUST FLUID PUMP MOUNTING		
43Y-001	STANDARD DIESEL EXHAUST FLUID TANK CAP		
273-036	BORG WARNER (KYSOR) REAR AIR ON/OFF ENGINE FAN CLUTCH		
276-001	AUTOMATIC FAN CONTROL WITHOUT DASH SWITCH, NON ENGINE MOUNTED		
110-063	CUMMINS SPIN ON FUEL FILTER		
118-008	COMBINATION FULL FLOW/BYPASS OIL FILTER		
266-013	1100 SQUARE INCH ALUMINUM RADIATOR	70	
103-039	ANTIFREEZE TO -34F, OAT (NITRITE AND SILICATE FREE) EXTENDED LIFE COOLANT		
171-007	GATES BLUE STRIPE COOLANT HOSES OR EQUIVALENT		
172-001	CONSTANT TENSION HOSE CLAMPS FOR COOLANT HOSES		
270-016	RADIATOR DRAIN VALVE		
168-002	LOWER RADIATOR GUARD		
134-001	ALUMINUM FLYWHEEL HOUSING		

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Data Code	Description	Weight Front	Weight Rear
132-004	ELECTRIC GRID AIR INTAKE WARMER		
155-058	DELCO 12V 38MT HD STARTER WITH INTEGRATED MAGNETIC SWITCH		
Transmission			
342-582	ALLISON 3000 RDS AUTOMATIC TRANSMISSION WITH PTO PROVISION	200	60
Transmission Equipment			
343-339	ALLISON VOCATIONAL PACKAGE 223 - AVAILABLE ON 3000/4000 PRODUCT FAMILIES WITH VOCATIONAL MODELS RDS, HS, MH AND TRV		
84B-012	ALLISON VOCATIONAL RATING FOR ON/OFF HIGHWAY APPLICATIONS AVAILABLE WITH ALL PRODUCT FAMILIES		
84C-023	PRIMARY MODE GEARS, LOWEST GEAR 1, START GEAR 1, HIGHEST GEAR 6, AVAILABLE FOR 3000/4000 PRODUCT FAMILIES ONLY		
84D-023	SECONDARY MODE GEARS, LOWEST GEAR 1, START GEAR 1, HIGHEST GEAR 6, AVAILABLE FOR 3000/4000 PRODUCT FAMILIES ONLY		
84E-000	PRIMARY SHIFT SCHEDULE RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE		
84F-000	SECONDARY SHIFT SCHEDULE RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE		
84G-000	PRIMARY SHIFT SPEED RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE		
84H-000	SECONDARY SHIFT SPEED RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE		
84J-000	ENGINE BRAKE RANGE PRESELECT RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE		
84K-000	ENGINE BRAKE RANGE ALTERNATE PRESELECT RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE		
84N-200	FUEL SENSE 2.0 DISABLED - PERFORMANCE - TABLE BASED		
84U-000	DRIVER SWITCH INPUT - DEFAULT - NO SWITCHES		
362-823	CUSTOMER INSTALLED CHELSEA 280 SERIES PTO		

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Data Code	Description	Weight Front	Weight Rear
363-001	PTO MOUNTING, LH SIDE OF MAIN TRANSMISSION		
341-018	MAGNETIC PLUGS, ENGINE DRAIN, TRANSMISSION DRAIN, AXLE(S) FILL AND DRAIN		
345-003	PUSH BUTTON ELECTRONIC SHIFT CONTROL, DASH MOUNTED		
97G-004	TRANSMISSION PROGNOSTICS - ENABLED 2013		
370-015	WATER TO OIL TRANSMISSION COOLER, IN RADIATOR END TANK		
346-003	TRANSMISSION OIL CHECK AND FILL WITH ELECTRONIC OIL LEVEL CHECK		
35T-001	SYNTHETIC TRANSMISSION FLUID (TES-295 COMPLIANT)		
Front Axle and Equipment			
400-1A9	DETROIT DA-F-16.0-5 16,000# FL1 71.0 KPI/3.74 DROP SINGLE FRONT AXLE	190	
402-030	MERITOR 16.5X6 Q+ CAST SPIDER CAM FRONT BRAKES, DOUBLE ANCHOR, FABRICATED SHOES	10	
403-002	NON-ASBESTOS FRONT BRAKE LINING		
419-001	CAST IRON OUTBOARD FRONT BRAKE DRUMS		
409-006	FRONT OIL SEALS		
408-001	VENTED FRONT HUB CAPS WITH WINDOW, CENTER AND SIDE PLUGS - OIL		
416-022	STANDARD SPINDLE NUTS FOR ALL AXLES		
405-002	MERITOR AUTOMATIC FRONT SLACK ADJUSTERS		
536-012	TRW TAS-85 POWER STEERING	40	
539-003	POWER STEERING PUMP		
534-015	2 QUART SEE THROUGH POWER STEERING RESERVOIR		
40T-002	SYNTHETIC 75W-90 FRONT AXLE LUBE		
Front Suspension			
620-026	16,000# TAPERLEAF FRONT SUSPENSION	200	
619-005	MAINTENANCE FREE RUBBER BUSHINGS - FRONT SUSPENSION		
62H-010	FRONT SUSPENSION WITH LEFT HAND OFFSET SHACKLE BRACKET	4	
410-001	FRONT SHOCK ABSORBERS		
Rear Axle and Equipment			



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Data Code	Description	Weight Front	Weight Rear
420-1K3	MT-40-14X 40,000# R-SERIES TANDEM REAR AXLE		2,500
421-529	5.29 REAR AXLE RATIO		
424-001	IRON REAR AXLE CARRIER WITH STANDARD AXLE HOUSING		
386-073	MXL 17T MERITOR EXTENDED LUBE MAIN DRIVELINE WITH HALF ROUND YOKES	40	40
388-073	MXL 17T MERITOR EXTENDED LUBE INTERAXLE DRIVELINE WITH HALF ROUND YOKES		
878-019	(1) INTERAXLE LOCK VALVE FOR TANDEM OR TRIDEM DRIVE AXLES		
87A-001	BLINKING LAMP WITH EACH INTERAXLE LOCK SWITCH, INTERAXLE UNLOCK DEFAULT WITH IGNITION OFF		
423-032	MERITOR 16.5X7 Q+ STAMPED SPIDER CAM REAR BRAKES, DOUBLE ANCHOR, FABRICATED SHOES		-20
433-002	NON-ASBESTOS REAR BRAKE LINING		
434-003	STANDARD BRAKE CHAMBER LOCATION		
451-001	CAST IRON OUTBOARD REAR BRAKE DRUMS		-20
440-006	REAR OIL SEALS		
426-101	WABCO TRISTOP D LONGSTROKE 2-DRIVE AXLE SPRING PARKING CHAMBERS		20
428-002	MERITOR AUTOMATIC REAR SLACK ADJUSTERS		
41T-002	SYNTHETIC 75W-90 REAR AXLE LUBE		
Rear Suspension			
622-006	40,000# 4-SPRING FLAT LEAF REAR SUSPENSION		40
621-001	SPRING SUSPENSION - NO AXLE SPACERS		
431-001	STANDARD AXLE SEATS IN AXLE CLAMP GROUP		
624-011	52 INCH AXLE SPACING		
Brake System			
018-002	AIR BRAKE PACKAGE		
490-121	WABCO 4S/4M ABS WITH TRACTION CONTROL		
871-001	REINFORCED NYLON, FABRIC BRAID AND WIRE BRAID CHASSIS AIR LINES		
904-001	FIBER BRAID PARKING BRAKE HOSE		
412-001	STANDARD BRAKE SYSTEM VALVES		
46D-002	STANDARD AIR SYSTEM PRESSURE PROTECTION SYSTEM		



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Data Code	Description	Weight Front	Weight Rear
413-002	STD U.S. FRONT BRAKE VALVE		
432-003	RELAY VALVE WITH 5-8 PSI CRACK PRESSURE, NO REAR PROPORTIONING VALVE		
480-088	WABCO SYSTEM SAVER HP WITH INTEGRAL AIR GOVERNOR AND HEATER		
479-015	AIR DRYER FRAME MOUNTED		
460-001	STEEL AIR BRAKE RESERVOIRS		
477-006	BW DV-2 AUTO DRAIN VALVE WITHOUT HEATER ON ALL TANK(S)		

Trailer Connections

335-004	UPGRADED CHASSIS MULTIPLEXING UNIT
32A-002	UPGRADED BULKHEAD MULTIPLEXING UNIT

Wheelbase & Frame

545-677	6775MM (267 INCH) WHEELBASE		
546-101	11/32X3-1/2X10-15/16 INCH STEEL FRAME (8.73MMX277.8MM/0.344X10.94 INCH) 120KSI	430	150
547-001	1/4 INCH (6.35MM) C-CHANNEL INNER FRAME REINFORCEMENT	220	430
552-007	2450MM (96 INCH) REAR FRAME OVERHANG		
55W-009	FRAME OVERHANG RANGE: 91 INCH TO 100 INCH	-60	260
AC8-99D	CALC'D BACK OF CAB TO REAR SUSP C/L (CA) : 201.18 in		
AE8-99D	CALCULATED EFFECTIVE BACK OF CAB TO REAR SUSPENSION C/L (CA) : 198.18 in		
AE4-99D	CALC'D FRAME LENGTH - OVERALL : 392.62		
FSS-0LH	CALCULATED FRAME SPACE LH SIDE : 145.09 in		
FSS-0RH	CALCULATED FRAME SPACE RH SIDE : 250.13 in		
AMB-99D	CALC'D SPACE AVAILABLE FOR DECKPLATE : 201.45 in		
553-001	SQUARE END OF FRAME		
550-001	FRONT CLOSING CROSSMEMBER		
559-003	LIGHTWEIGHT HEAVY DUTY ALUMINUM ENGINE CROSSMEMBER	-12	
561-001	STANDARD CROSSMEMBER BACK OF TRANSMISSION		
562-001	STANDARD MIDSHIP #1 CROSSMEMBER(S)		
572-001	STANDARD REARMOST CROSSMEMBER		
565-001	STANDARD SUSPENSION CROSSMEMBER		

Chassis Equipment

Application Version 11.2.200
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 Lee County KB



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Prepared for:
 Brandon White
 City of Tupelo
 604 Crossover Road
 Tupelo, MS 38802
 Phone: 6628416430

Prepared by:
 Tommy Foster
 TAG Truck Center
 1650 E. Brooks Road
 Memphis, TN 38116
 Phone:

Data Code	Description	Weight Front	Weight Rear
556-1AR	THREE-PIECE 14 INCH CHROMED STEEL BUMPER WITH COLLAPSIBLE ENDS	30	
558-001	FRONT TOW HOOKS - FRAME MOUNTED	15	
574-001	BUMPER MOUNTING FOR SINGLE LICENSE PLATE		
586-024	FENDER AND FRONT OF HOOD MOUNTED FRONT MUDFLAPS		
551-007	GRADE 8 THREADED HEX HEADED FRAME FASTENERS		
Fuel Tanks			
204-215	50 GALLON/189 LITER SHORT RECTANGULAR ALUMINUM FUEL TANK - LH	20	
218-005	RECTANGULAR FUEL TANK(S)		
215-005	PLAIN ALUMINUM/PAINTED STEEL FUEL/HYDRAULIC TANK(S) WITH PAINTED BANDS		
212-007	FUEL TANK(S) FORWARD		
664-001	PLAIN STEP FINISH		
205-001	FUEL TANK CAP(S)		
122-1H3	DETROIT FUEL/WATER SEPARATOR WITH WATER IN FUEL SENSOR	-5	
216-020	EQUIFLO INBOARD FUEL SYSTEM		
11F-998	NO NATURAL GAS VEHICLE FUEL TANK VENT LINE/STACK		
202-016	HIGH TEMPERATURE REINFORCED NYLON FUEL LINE		
Tires			
093-0TA	MICHELIN XZY-3 385/65R22.5 18 PLY RADIAL FRONT TIRES	130	
094-2EU	HANKOOK DH06 11R22.5 14 PLY RADIAL REAR TIRES		128
Hubs			
418-060	CONMET PRESET PLUS PREMIUM IRON FRONT HUBS		
450-060	CONMET PRESET PLUS PREMIUM IRON REAR HUBS		
Wheels			
502-574	ACCURIDE 29807 22.5X12.25 10-HUB PILOT 4.75 INSET 5-HAND STEEL DISC FRONT WHEELS	98	
505-1F2	MAXION WHEELS 90541 22.5X8.25 10-HUB PILOT 6.20 INSET 2-HAND STEEL DISC REAR WHEELS		
50T-998	NO FRONT AXLE WHEEL/HUB COVER		



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 TAG Truck Center
 1650 E. Brooks Road
 Memphis, TN 38116
 Phone:

Data Code	Description	Weight Front	Weight Rear
496-011	FRONT WHEEL MOUNTING NUTS		
497-011	REAR WHEEL MOUNTING NUTS		
Cab Exterior			
829-071	106 INCH BBC FLAT ROOF ALUMINUM CONVENTIONAL CAB		
650-008	AIR CAB MOUNTING		
678-001	LH AND RH GRAB HANDLES		
646-045	MOLD-IN COLOR GRILLE		
65X-011	MOLD-IN COLOR HOOD MOUNTED AIR INTAKE GRILLE		
644-004	FIBERGLASS HOOD		
727-066	DUAL 26 INCH RECTANGULAR POLISHED ALUMINUM AIR HORNS ROOF MOUNTED	8	
726-001	SINGLE ELECTRIC HORN		
728-002	DUAL HORN SHIELDS		
657-001	DOOR LOCKS AND IGNITION SWITCH KEYED THE SAME		
78G-002	KEY QUANTITY OF 2		
575-001	REAR LICENSE PLATE MOUNT END OF FRAME		
312-043	INTEGRAL HEADLIGHT/MARKER ASSEMBLY		
302-001	(5) AMBER MARKER LIGHTS		
311-019	HEADLIGHTS ON WITH WIPERS, WITH DAYTIME RUNNING LIGHTS		
294-001	INTEGRAL STOP/TAIL/BACKUP LIGHTS		
300-015	STANDARD FRONT TURN SIGNAL LAMPS		
469-998	NO WORK LIGHT		
744-1BH	DUAL WEST COAST MOLDED-IN COLOR MIRRORS		
797-001	DOOR MOUNTED MIRRORS		
796-001	102 INCH EQUIPMENT WIDTH		
743-1AP	LH AND RH 8 INCH MOLDED-IN COLOR CONVEX MIRRORS MOUNTED UNDER PRIMARY MIRRORS		
729-001	STANDARD SIDE/REAR REFLECTORS		
768-043	63X14 INCH TINTED REAR WINDOW		
661-003	TINTED DOOR GLASS LH AND RH WITH TINTED NON-OPERATING WING WINDOWS		
654-003	MANUAL DOOR WINDOW REGULATORS		
663-013	TINTED WINDSHIELD		
659-019	2 GALLON WINDSHIELD WASHER RESERVOIR WITHOUT FLUID LEVEL INDICATOR, FRAME MOUNTED		

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 Lee County KB



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Prepared for:
 Brandon White
 City of Tupelo
 604 Crossover Road
 Tupelo, MS 38802
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Prepared by:
 Tommy Foster
 TAG Truck Center
 1650 E. Brooks Road
 Memphis, TN 38116
 Phone:

Data Code	Description	Weight Front	Weight Rear
Cab Interior			
707-1AM	OPAL GRAY CLOTH INTERIOR		
706-013	MOLDED PLASTIC DOOR PANEL		
708-013	MOLDED PLASTIC DOOR PANEL		
772-006	BLACK MATS WITH SINGLE INSULATION		
691-008	FORWARD ROOF MOUNTED CONSOLE WITH UPPER STORAGE COMPARTMENTS WITHOUT NETTING		
694-010	IN DASH STORAGE BIN		
738-001	DIGITAL FLUSH MOUNTED ALARM CLOCK IN DASH		
742-007	(2) CUP HOLDERS LH AND RH DASH		
680-006	GRAY/CHARCOAL FLAT DASH		
700-002	HEATER, DEFROSTER AND AIR CONDITIONER		
701-001	STANDARD HVAC DUCTING		
703-005	MAIN HVAC CONTROLS WITH RECIRCULATION SWITCH		
170-015	STANDARD HEATER PLUMBING		
130-041	VALEO HEAVY DUTY A/C REFRIGERANT COMPRESSOR		
702-002	BINARY CONTROL, R-134A		
739-033	STANDARD INSULATION		
285-013	SOLID-STATE CIRCUIT PROTECTION AND FUSES		
280-007	12V NEGATIVE GROUND ELECTRICAL SYSTEM		
324-011	DOMED DOOR ACTIVATED LH AND RH, DUAL READING LIGHTS, FORWARD CAB ROOF		
655-001	CAB DOOR LATCHES WITH MANUAL DOOR LOCKS		
756-1J3	BASIC HIGH BACK AIR SUSPENSION DRIVER SEAT WITH MECHANICAL LUMBAR AND INTEGRATED CUSHION EXTENSION	30	
760-1C0	2 MAN TOOL BOX MID BACK NON SUSPENSION PASSENGER SEAT WITH HEADRESTS	70	20
711-004	LH AND RH INTEGRAL DOOR PANEL ARMRESTS		
758-036	VINYL WITH VINYL INSERT DRIVER SEAT		
761-036	VINYL WITH VINYL INSERT PASSENGER SEAT		
763-101	BLACK SEAT BELTS		
532-002	ADJUSTABLE TILT AND TELESCOPING STEERING COLUMN	10	
540-015	4-SPOKE 18 INCH (450MM) STEERING WHEEL		

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 Lee County KB



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Prepared for:
Brandon White
City of Tupelo
604 Crossover Road
Tupelo, MS 38802
Phone: 6628416430

Prepared by:
Tommy Foster
TAG Truck Center
1650 E. Brooks Road
Memphis, TN 38116
Phone:

Data Code	Description	Weight Front	Weight Rear
765-002	DRIVER AND PASSENGER INTERIOR SUN VISORS		
67E-998	NO ENTRY/ACCESS/STEP WIRING		
Instruments & Controls			
732-004	GRAY DRIVER INSTRUMENT PANEL		
734-004	GRAY CENTER INSTRUMENT PANEL		
870-001	BLACK GAUGE BEZELS		
486-001	LOW AIR PRESSURE INDICATOR LIGHT AND AUDIBLE ALARM		
840-002	2 INCH PRIMARY AND SECONDARY AIR PRESSURE GAUGES		
198-025	INTAKE MOUNTED AIR RESTRICTION INDICATOR WITHOUT GRADUATIONS		
721-001	97 DB BACKUP ALARM		3
149-013	ELECTRONIC CRUISE CONTROL WITH SWITCHES IN LH SWITCH PANEL		
156-007	KEY OPERATED IGNITION SWITCH AND INTEGRAL START POSITION; 4 POSITION OFF/RUN/START/ACCESSORY		
811-042	ICU3S, 132X48 DISPLAY WITH DIAGNOSTICS, 28 LED WARNING LAMPS AND DATA LINKED		
160-038	HEAVY DUTY ONBOARD DIAGNOSTICS INTERFACE CONNECTOR LOCATED BELOW LH DASH		
844-001	2 INCH ELECTRIC FUEL GAUGE		
148-003	PROGRAMMABLE RPM CONTROL - ELECTRONIC ENGINE		
856-001	ELECTRICAL ENGINE COOLANT TEMPERATURE GAUGE		
864-001	2 INCH TRANSMISSION OIL TEMPERATURE GAUGE		
830-017	ENGINE AND TRIP HOUR METERS INTEGRAL WITHIN DRIVER DISPLAY		
372-051	CUSTOMER FURNISHED AND INSTALLED PTO CONTROLS		
852-002	ELECTRIC ENGINE OIL PRESSURE GAUGE		
679-001	OVERHEAD INSTRUMENT PANEL		
746-114	AM/FM/MB WORLD TUNER RADIO WITH AUXILIARY INPUT, J1939	10	
747-001	DASH MOUNTED RADIO		
750-002	(2) RADIO SPEAKERS IN CAB		
753-001	AM/FM ANTENNA MOUNTED ON FORWARD LH ROOF		

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 City of Tupelo
 604 Crossover Road
 Tupelo, MS 38802
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Prepared by:
 Tommy Foster
 TAG Truck Center
 1650 E. Brooks Road
 Memphis, TN 38116
 Phone:

Data Code	Description	Weight Front	Weight Rear
748-006	POWER AND GROUND WIRING PROVISION OVERHEAD		
749-001	ROOF/OVERHEAD CONSOLE CB RADIO PROVISION		
810-027	ELECTRONIC MPH SPEEDOMETER WITH SECONDARY KPH SCALE, WITHOUT ODOMETER		
817-001	STANDARD VEHICLE SPEED SENSOR		
812-001	ELECTRONIC 3000 RPM TACHOMETER		
162-011	IDLE LIMITER, ELECTRONIC ENGINE		
836-015	DIGITAL VOLTAGE DISPLAY INTEGRAL WITH DRIVER DISPLAY		
860-008	SINGLE ELECTRIC WINDSHIELD WIPER MOTOR WITH DELAY		
304-001	MARKER LIGHT SWITCH INTEGRAL WITH HEADLIGHT SWITCH		
882-009	ONE VALVE PARKING BRAKE SYSTEM WITH WARNING INDICATOR		
299-013	SELF CANCELING TURN SIGNAL SWITCH WITH DIMMER, WASHER/WIPER AND HAZARD IN HANDLE		
298-039	INTEGRAL ELECTRONIC TURN SIGNAL FLASHER WITH HAZARD LAMPS OVERRIDING STOP LAMPS		

Design

065-000 PAINT: ONE SOLID COLOR

Color

980-4MG CAB COLOR A: L6503EY SILVER METALLIC
ELITE EY
 986-020 BLACK, HIGH SOLIDS POLYURETHANE CHASSIS
PAINT
 962-972 POWDER WHITE (N0006EA) FRONT
WHEELS/RIMS (PKWHT21, TKWHT21, W, TW)
 966-972 POWDER WHITE (N0006EA) REAR
WHEELS/RIMS (PKWHT21, TKWHT21, W, TW)
 963-003 STANDARD E COAT/UNDERCOATING

Certification / Compliance

996-001 U.S. FMVSS CERTIFICATION, EXCEPT SALES
CABS AND GLIDER KITS

Secondary Factory Options

95M-998 NO CUSTOMER FURNISHED MATERIAL
SPECIFIED

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 City of Tupelo
 604 Crossover Road
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 TAG Truck Center
 1650 E. Brooks Road
 Memphis, TN 38116
 Phone:

Data Code	Description	Weight Front	Weight Rear
Raw Performance Data			
AE4-99D	CALC'D FRAME LENGTH - OVERALL : 392.62		
AE8-99D	CALCULATED EFFECTIVE BACK OF CAB TO REAR SUSPENSION C/L (CA) : 198.18 in		
AM6-99D	CALC'D SPACE AVAILABLE FOR DECKPLATE : 201.45 in		

Sales Programs

NO SALES PROGRAMS HAVE BEEN SELECTED

TOTAL VEHICLE SUMMARY

Weight Summary

	Weight Front	Weight Rear	Total Weight
Factory Weight*	8127 lbs	7144 lbs	15271 lbs
Total Weight†	8127 lbs	7144 lbs	15271 lbs

(*) Weights shown are estimates only.

If weight is critical, contact Customer Application Engineering.

(***) All cost increases for major components (Engines, Transmissions, Axles, Front and Rear Tires) and government mandated requirements, tariffs, and raw material surcharges will be passed through and added to factory invoices.





Wren Body Works, LLC

32722 Hwy 45 North
Okolona, MS 38860

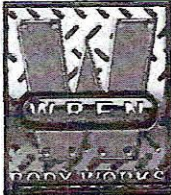
Quote

Date	Quote #
2/7/2020	17694

Name / Address		Ship To		
TAG Truck Center 2448 McCullough Belden, MS 38826		TAG Truck Center 2448 McCullough Belden, MS 38826		
Qty	Item	Description	Unit Price	Total
1	JOB	Furnish & Install - 22-foot x 8-foot Heavy Duty Brush Bed. Includes 7-inch structural channel main frame, 4-inch structural channel cross members 12-inches OC, 6-inch structural channel outside rail, 4-inch structural channel posts 12-inches OC, 7-inch structural channel rear post, 6-inch structural channel top rail, 1/4-inch thick floor, 5-foot tall 10 gauge sides and bulkhead with 2" + 2" double brake on top with 1" single brake on bottom, 1/4" x 3" across bottom of posts, 2 sets mud flaps, LED clearance lights, reflectors, back-up alarm, LED safety flashers in rear posts, primed and painted black.		
1	JOB	Furnish & Install - Palfinger M13A80 Loader Includes loader, PTO, hydraulic pump, oil, hoses, wiring 26' 5" horizontal reach via single telescope, Net lifting moment: 92,200 ft.-lbs., Net slewing torque: 14,010 ft.-lbs. Right side mounted operator station with two joysticks, Telescope controlled electrically on right joystick, slewing via swing pedal Fold down joysticks, Control valve mounted on operators station Seat adjustable in distance forward/back Independently controlled telescopic stabilizers Stabilization fully hydraulic (2-sections) controlled from topseat Double circuit Control valve Operating pressure: 3,410-psi Continuous ring and pinion rotation Dual ladders Main boom cylinder protection, Above mounted outer boom cylinder Linkage system between main and outer boom Throttle check valves on main, outer, and extension cylinders EPSCOPE - patented telescope system with inside hose routing (w/o on		
This quote valid for 30 days. FOB Wren, MS.			Subtotal	
			Sales Tax (0.0%)	
			Total	

Phone #	Fax #	Web Site
662-256-2028	662-256-7572	wrenbodyworks.com

Neil Turnage
Wren Body Works, LLC.



Wren Body Works, LLC

32722 Hwy 45 North
Okolona, MS 38860

Quote

Date	Quote #
2/7/2020	17694

Name / Address	Ship To
TAG Truck Center 2448 McCullough Belden, MS 38826	TAG Truck Center 2448 McCullough Belden, MS 38826

Qty	Item	Description	Unit Price	Total
		fixed boom) KTL primed and powder coated (Boom EPSILON red RAL 3020 - Base EPSILON grey 7021) 4x LED worklights, 2 on the operators station and two on the outer boom Mounting bolts kit Hose package (4x outer boom, 4x EPSCOPE) (CWP) Cold weather package (seat heating - bottom and seat back) (GAL) Truck mount column (BK138) Epsilon rotator RB10F (10t with lateral outputs) Palfinger 79 US Gallon (300L) Steel Hydraulic Oil Tank Hydraulic oil cooler fitted in return line with protective housing. 26.8 HP (20.0 kW) Heat Removal, 12V. Recommended for Double Circuit cranes OR greater than 30 GPM. 1-1/4" BSPP male connections. BAK BDV100-42 REFUSE GRAPPLE, 42" HYDRAULIC PUMP, 257 SERIES PERMCO, SINGLE INLET / DUAL OUTLET, 7/8"-13T OUTPUT, 13.8 GPM 1-1 RATIO, 3.21 CU IN, 2" O-RING SUCTION PORT, 3/4" SPLIT FLANGE PRESSURE PORTS.		

This quote valid for 30 days. FOB Wren, MS.

Subtotal

Sales Tax (0.0%)

Total

Phone #	Fax #	Web Site
662-256-2028	662-256-7572	wrenbodyworks.com

Neil Turnage
Wren Body Works, LLC.



Wren Body Works, LLC

32722 Hwy 45 North
Okolona, MS 38860

Quote

Date	Quote #
2/7/2020	17694

Name / Address			Ship To	
TAG Truck Center 2448 McCullough Belden, MS 38826			TAG Truck Center 2448 McCullough Belden, MS 38826	
Qty	Item	Description	Unit Price	Total
This quote valid for 30 days. FOB Wren, MS.			Subtotal	
			Sales Tax (0.0%) \$0.00	
			Total	

Phone #	Fax #	Web Site
662-256-2028	662-256-7572	wrenbodyworks.com

Neil Turnage
Wren Body Works, LLC.



AGENDA REQUEST

TO: Mayor and City Council
FROM: Chief Bart Aguirre
DATE February 24, 2020
SUBJECT: REQUEST TO SURPLUS OFFICER ROBERT EDWARDS (DUTY WEAPON)

Request: Please accept this letter as a request to surplus Officer Robert Edwards' duty weapon (Glock Model 45, 9mm) serial number BKLY450 for \$1.00, which will be turned over to him for his retirement from the City of Tupelo, and the Tupelo Police Department, as permissible under Mississippi State Statute 45-9-131. In following with Tupelo Police Department tradition, I request that this weapon be declared surplus for stated reason.

Thank you for your attention in this matter,

Chief of Police, City of Tupelo

Bart Aguirre



Tupelo Police Department

Chief Bart Aguirre

Memo

To: City Council Members
From: Chief Bart Aguirre
Subject: Surplus and Retirement
CC: Mayor Shelton, COO Lewis
Date: February 24, 2020

Please accept this letter as a request to surplus Officer Robert Edwards' duty weapon (Glock Model 45, 9mm) serial number BKLY450 for \$1.00, which will be turned over to him for his retirement from the City of Tupelo, and the Tupelo Police Department, as permissible under Mississippi State Statute 45-9-131. In following with Tupelo Police Department tradition, I request that this weapon be declared surplus for stated reason.

Thank you for your attention in this matter,

A handwritten signature in blue ink, appearing to read 'Bart Aguirre'.

Bart Aguirre
Chief of Police



FEDERAL RESERVE NOTE

THE UNITED STATES OF AMERICA

THIS NOTE IS LEGAL TENDER
FOR ALL DEBTS, PUBLIC AND PRIVATE

H 83542583 A

WASHINGTON, D.C.



8

FW F 38

8

SERIES 2017 Steven T. Mnuchin

John L. Kangas
Treasurer of the United States

Secretary of the Treasury

H 83542583 A

8

ONE DOLLAR

WASHINGTON

Bart Aguirre

From: Anthony Hill
Sent: Tuesday, February 04, 2020 1:39 PM
To: Bart Aguirre
Subject: Fwd: Notice of Retirement

Anthony Hill

Begin forwarded message:

From: Terry Sanford <Terry.Sanford@tupeloms.gov>
Date: February 4, 2020 at 1:08:51 PM CST
To: Anthony Hill <Anthony.Hill@tupeloms.gov>
Subject: FW: Notice of Retirement

From: Dean Bearden
Sent: Tuesday, February 04, 2020 12:57 PM
To: Terry Sanford <Terry.Sanford@tupeloms.gov>
Cc: Derek Nelson <Derek.Nelson@tupeloms.gov>; Amanda Bridges <Amanda.Bridges@tupeloms.gov>
Subject: FW: Notice of Retirement

For your information sir. Can you make arrangements for Rob to purchase his weapon?



Dean Bearden, Director
North Ms. Law Enforcement Training Center
1 Finney Lane
Tupelo, Ms. 38801
(662) 841-6400

From: Rob Edwards
Sent: Tuesday, February 4, 2020 12:54 PM
To: Dean Bearden <Dean.Bearden@tupeloms.gov>
Subject: Notice of Retirement

After receiving the results of my audited retirement account, PERS shows that I was eligible to retire as of January 1, 2020 so I am notifying you now that my last day to work as an instructor with NMLETC will be Friday February 28, 2020. This date could possibly fluctuate and move into March due to PERS returning my Phase 2 packet and their processing of my Form 9S. I had always intended to retire once I officially reached my 25th year but unfortunately my third involuntary deployment to the Middle East delayed PERS handling my paperwork which hampered my ability to retire on time.

I wish to purchase, as allowed by state law, my city-issued Glock Model 45 pistol (S/N BKLY450) for \$1 upon the approval from the Tupelo City Council.

Rob Edwards
NMLETC Instructor



AGENDA REQUEST

TO: Mayor and City Council
FROM: Chief Bart Aguirre
DATE February 28, 2020
SUBJECT: REQUEST TO ACCEPT A DONATED PATROL VEHICLE

Request:

Please accept this letter as a request from the Tupelo Police Department to accept a donated patrol vehicle (2015 Ford Interceptor). This vehicle was donated to the Tupelo Police Department/North Mississippi Law Enforcement Training Academy from Mississippi State University Police Department. This vehicle will be used for training purposes at the academy. The vehicle is being donated with no expense to the City Of Tupelo. The information for the donated vehicle is listed below.

Attachments:

A. 2015 Ford Interceptor: VIN#1FM5K8AR5FGB03504

Thank you for your attention in this matter,

Chief of Police, City of Tupelo

Bart Aguirre



MISSISSIPPI STATE
UNIVERSITY™

POLICE DEPARTMENT

P.O. Box 6066
25 Walker Road, Butler-Williams Bldg.
Mississippi State, MS 39762

P. 662.325.2121

F. 662.325.1813

www.police.msstate.edu

February 28, 2020

To Whom It May Concern:

The Mississippi State University Police Department will be donating the following vehicle, free of charge, to the Tupelo Police Department for use by the North MS Law Enforcement Training Academy:

- 2015 Ford Interceptor
 - Condition: Fair/Operational
 - VIN# 1FM5K8AR5FGB03504
 - Color: White
 - Mileage: Approximately 96,000 miles

We have completed the "Request to Transfer/Donate Items to State-Funded Entity" form and obtained signatures by all parties involved. We have also handed over the original title to Dean Bearden and removed equipment owned by MSU Police Department from the vehicle.

If you should have any questions or concerns about the donation of this vehicle, please do not hesitate to contact me at (662) 325-1812.

Sincerely,

M. Vance Rice
Chief of Police









CERTIFICATE OF TITLE

Form 79-001-05-7-1-000

STATE OF MISSISSIPPI

RECEIVED ORIGINAL

JAN - 6 2015

VEHICLE IDENTIFICATION NUMBER

1FM5K8AR5FGB03504

MAKE

FORD

YEAR

2015

MODEL

XP0

BODY

4W

TITLE NUMBER

H105055-01

TITLE DATE

12192014

DATE OF FIRST SALE
FOR USE NEW ONLY

10242014

NO. CYL.

06

NEW / USED

X

TYPE OF VEHICLE

TRUCK

PASS.
OR GVW

000

ODOMETER - TENTHS NOT INCLUDED

000024

ACTUAL MILEAGE

OWNER

MS STATE UNIVERSITY
P O BOX 5307
MISS STATE MS 39762

1ST LIENHOLDER (OR OWNER IF NO LIEN)

MS STATE UNIVERSITY
P O BOX 5307
MISS STATE MS 39762

DATE:

MONTH | DAY | YEAR

2ND LIENHOLDER

DATE:

MONTH | DAY | YEAR

LIEN SATISFACTION: THE UNDERSIGNED HOLDER OF ABOVE DESCRIBED LIEN(S) ON THE MOTOR VEHICLE DESCRIBED HEREON HEREBY ACKNOWLEDGES SATISFACTION THEREOF.

1ST LIEN _____
(LIENHOLDER)

BY _____
(SIGNATURE AND TITLE)

THIS _____ DAY OF _____ 20 _____

2ND LIEN _____
(LIENHOLDER)

BY _____
(SIGNATURE AND TITLE)

THIS _____ DAY OF _____ 20 _____

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND THIS

THE 19 DAY OF DECEMBER 20 14
14352575010 00621



CONTROL NUMBER

19940127

MISSISSIPPI DEPARTMENT OF REVENUE

The Mississippi Department of Revenue hereby certifies that on application duly made, the person named herein is registered by this office as the lawful owner of the vehicle described subject to the liens or security interests as may subsequently be filed with the Mississippi Department of Revenue. This certificate of title is issued pursuant to the Mississippi Motor Vehicle Title Law Section 63-21-1, Mississippi Code of 1972, and subject to the provisions thereof.

VOID IF ALTERED

Year	Acq/upg.	Fuel Type	Miles	Gallons	MPG	Fuel Cost	Maint.	Repair	\$/mile
2016	28,563.00	Flexible	93,734	8,362.8	11.2	16,291.54	1,718.66	1,072.85	0.2036



AGENDA REQUEST

TO: Mayor and City Council
FROM: Chief Bart Aguirre
DATE March 11, 2020
SUBJECT: Surplus Vehicles

Request:

Please accept this letter as a request to surplus the following vehicles. The vehicles have been involved in different accidents, and are no longer any use to the City Of Tupelo or the Tupelo Police Department.

- A. 2018 Ford Interceptor//Vin#1FM5K8AR3JGA37141//PD#07
- B. 2012 Dodge Ram Truck//Vin#1C6RD6KP6C5294397//PD#9/Asset#15446

Thank you for your attention in this matter,

Chief of Police, City of Tupelo

Bart Aguirre



AGENDA REQUEST

TO: Mayor and City Council
FROM: Don Lewis
DATE March 1, 2020
SUBJECT: PROJECT SOLUTION

Request:

Approval of contract with Express Employment for a period of 120 days not to exceed \$30,000 for contract labor.

Attachments:

A. Staffing Agreement



Staffing Agreement

Office Number and Location:

At Express Services, Inc. (Express) dba Express Employment Professionals (referred to as "Express," "Us," "We," or "Our"), we make it easy for you to do business with Us. The first step to establishing a successful staffing relationship is to ensure a clear understanding of each party's responsibilities. We appreciate your business and look forward to the opportunity to support you with outstanding professional employment services in consideration of your agreement to the following terms and conditions:

1. We hire associates as Express employees, and provide all wages, taxes, withholding, workers' compensation, and unemployment insurance. We recruit and assign associates to you to perform only the job duties you specify. You agree not to change the specified duties or the assigned workplace of the associate.
2. Express complies with all federal, state, and local employment laws and regulations, as applicable. You agree to provide Our associates with a safe, suitable workplace and equipment, provide all legally-mandated meal and rest breaks, and to comply with all applicable federal, state, and local employment laws including appropriate workplace-specific safety and health training that adequately addresses potential hazards at your worksite.
3. You agree to safeguard and protect any private information regarding Express employees to which you gain access, including biometric information, and agree to abide by any applicable laws addressing the collection, use, storage, or protection of private and/or biometric information. You also agree to defend, indemnify, and hold Express harmless from any loss, cost, claim, or damage, including costs and attorney fees, (collectively "Loss" or "Losses") resulting from your failure to abide by the laws addressing the collection, use, storage, or protection of private and/or biometric information and/or unauthorized uses of said information and hold Express harmless from any Loss resulting from your non-compliance with all current and future applicable federal, state, and local laws and regulations including, but without limitation, sick leave, vacation, wage and hour, and meal and rest breaks. Express pays associates promptly, based on information approved by you. You agree to pay the charges and any applicable sales tax based on the timecard or other mutually acceptable recording method by the invoice due date.
4. The bill rates charged by Express are specific to office location and may vary from Express office to Express office and are subject to change based upon federal, state or local laws that provide benefits to our associates or upon prior notice. A service charge of 1.5% per month (18% per annum) may be assessed on charges remaining unpaid 30 days after the invoice date. We are entitled to reasonable collection fees, attorney fees, and other expenses incurred to collect all charges on your account(s).
5. We provide insurance policies to cover Express for Workers' Compensation, and Employers Liability Parts A & B claims by Express associates against Express in an amount not less than \$1,000,000 per occurrence and provide Commercial General Liability, Fidelity Bond, Errors and Omissions, and Hired/Non-Owned Automobile coverage in an amount not less than \$1,000,000 per occurrence.
6. You agree that you will not request or allow Our associates to offer professional opinions concerning any financial audits, certifications or financial statements, SEC filings, or provide management consulting or financial advice, nor will Our associates be permitted sign-off authority for architectural or engineering projects or construction or other cost estimates.
7. If Our associates have access to unattended premises or the care, custody, or control of cash, checks, credit card numbers, ATM bank cards, negotiables, confidential information, trade secrets, or other valuable property, then you agree to defend, indemnify, and hold Us harmless from any resulting Loss.
8. Express will only provide associates for positions operating a motor vehicle, forklift, or other motorized mobile equipment if notified in writing prior to an assignment. We must know in advance, so We can assign associates who are qualified to meet your specifications. During an assignment, if Our associate operates a motor vehicle, forklift, or any other motorized mobile equipment, you agree to maintain liability insurance for any such motorized equipment and to defend, indemnify, and hold Us harmless for bodily injury, property damage, fire, theft, collision, public liability claims, or other Loss, regardless of fault.
9. You will supervise, direct, and control the work performed by Express associates, and assume responsibility for all work product and operational results, including personal injury to a third party or your agents or employees, losses or damage to property or data in the care, custody, or control of an Express associate. You agree to defend, indemnify, and hold Us harmless from any Loss, including costs and attorney fees, (collectively "Loss" or "Losses") that may be caused by breach of this Agreement and/or by your negligence or misconduct, and agree on behalf of your insurer(s) to waive all rights of recovery (subrogation) against Us.
10. In addition to Our duties and responsibilities set forth herein, Express, as the common-law employer, has the right to physically inspect the worksite and work processes; to review and address, unilaterally or in coordination with you, the associates' work performance issues; and to enforce Our employment policies relating to associates' conduct at the worksite.
11. We offer an evaluation hire program designed to provide you with associates on a trial basis prior to converting them to your payroll. To take advantage of Our evaluation hire program, you agree to negotiate a pre-determined trial period or fee prior to an associate's assignment to you.
12. Express will, at your written request, conduct criminal history checks based on your targeted screening criteria, motor vehicle record checks, and drug screens as permitted by federal, state, and local laws and regulations. The costs vary depending upon the specific test or report ordered and the charges will be agreed upon prior to ordering the tests and/or reports.
13. If you have an Express associate on an assignment and determine you would like to hire the associate onto your payroll, you may do so by paying a transfer fee of up to 30% of the associate's expected annual salary, provided all invoices are current.
14. You agree, for a period of 180 days from the date of introduction or last date on assignment, whichever is later, not to hire directly or use Express associates through another staffing firm without paying a liquidation fee of 30% of the Express associate's expected annual compensation, unless otherwise agreed to by Us in writing.

Thank you for your business. We look forward to a mutually beneficial relationship.

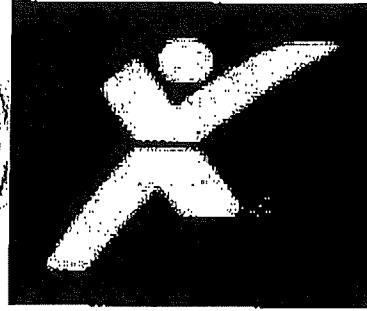
Company: _____

Date: _____

Agent's Name (please print): _____

Title: _____

Agent's Signature: _____



Express Employment Professionals: 810 Garfield Street; Tupelo, MS 38826; (662) 842-5500
Proposed Services, February 2020, Jim and Julianne Goodwin, Owners.

Thank you for the opportunity to bid on your Variable Workforce needs. These are the services included in the Bill Rates quoted below:

- Express Screening: On average, out of every 13 people who walk in our door we only interview 3 and only send out one. Each applicant is put through a battery of processes to establish their fit for a specific position:
 - Face-to-face live interview
 - I-9 verification
 - Five Panel Drug Screen
 - Work References
 - Criminal Background Check

Evaluation Hire Terms 520 hours (13 weeks* 40 hours/week). The Early Buy Out Fee Formula is: (Bill Rate-Pay Rate)* (520 hours-actual hours worked).

Service Rates

Item	%	\$
Pay Pate		\$ 9.00
FICA	7.65	\$ 0.69
Workers Comp	1.14	\$ 0.10
FUTA	0.6	\$ 0.05
SUTA	0.9	\$ 0.08
Fully Loaded Cost		\$ 9.93
Bill Rate		\$ 11.39
Expected City Cost at + 33%		\$ 11.97





AGENDA REQUEST

TO: Mayor and City Council

FROM: Todd Hunt, Executive Director, BancorpSouth Arena & Conference Center

DATE March 4, 2020

SUBJECT: CONSTRUCTION CONTRACT APPROVALS

Request:

Approve contracts for our expansion project (bids were awarded on October 1, 2019)

Attachments:

A. 12 separate contracts:

- a. DC Services (Site Improvements)
- b. Shaw Services (Structural Concrete)
- c. Bush Masonry (Masonry)
- d. Harrell's Metal Works (Structural Steel)
- e. Graham Roofing (Roofing)
- f. Tull Brothers (Glass and Glazing)
- g. Acoustics and Specialties (Drywall and Paint)
- h. DC Services (General Works)
- i. FL Crane & Sons (Flooring)
- j. Fireline (Fire Protection)
- k. Kline Mechanical (Mechanical and Plumbing)
- l. Conditioned Air (Electrical)

AIA® Document A132™ – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the 1st day of October in the year 2019
(In words, indicate day, month and year.)

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

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

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

D C Services LLC
PO Box 2293
Oxford, MS 38655
Telephone Number: (662) 832-8500
Fax Number: (662) 510-0273

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

Bid Package A: Site Improvements (Bid #2019-017CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

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

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

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

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser. ^AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

TABLE OF ARTICLES

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

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The commencement shall be fixed in a separate Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

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

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of the Work

Bid Package A: Site Improvements

Substantial Completion Date

Substantial Completion and Milestone dates as indicated in Specification Section 011000 "Summary of Work."

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:

(Check the appropriate box.)

- ☒ [X] Stipulated Sum, in accordance with Section 4.2 below
- ☐ [] Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance with Section 4.3 below
- ☐ [] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be Six Hundred Seventy Eight Thousand Dollars (\$ 678,000), subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

Bid Alternate 1: \$0

Bid Alternate 2: \$0

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
Unit Price 1 - Removal of unsuitable soil above and beyond that in Base Bid.	Per cubic yard	\$12.00
Unit Price 2 - Importing additional select fill and compaction required above and beyond that in Base Bid.	Per cubic yard	\$18.00

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

(Identify allowance and state exclusions, if any, from the allowance price.)

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User Notes:

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(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

§ 5.1.3 Provided that an Application for Payment is received by the Construction Manager not later than the twenty-fifth day of a month, the Owner shall make payment of the certified amount in the Application for Payment to the Contractor not later than the twenty-fifth day of the following month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

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

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

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- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

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

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

(Paragraphs deleted)

§ 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232-2009, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and
- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

Final payment will be made after receipt, review, and approval of all close-out submittals.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232-2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232-2009, the method of binding dispute resolution shall be as follows:

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

☐ Arbitration pursuant to Section 15.4 of AIA Document A232-2009.

☒ Litigation in a court of competent jurisdiction.

☐ Other: *(Specify)*

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2009.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232–2009.

§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232–2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, 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.

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232–2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232–2009 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232–2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Legal Rate %

§ 8.3 The Owner's representative:
(Name, address and other information)

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

§ 8.4 The Contractor's representative:
(Name, address and other information)

David Carroll

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D C Services, LLC
PO Box 2293
Oxford, MS 38655
Telephone Number: (662) 832-8500

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

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A132–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition.

§ 9.1.2 The General Conditions are AIA Document A232–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
AIA Document A232	General Conditions of the Contract for Construction, Construction Manager as Adviser	2009 Edition	
Section 007313	Supplementary Conditions	June 2019	24

§ 9.1.4 The Specifications: See attached Exhibit A
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

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

§ 9.1.5 The Drawings: See attached Exhibit B
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
--------	-------	------

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
Addendum No. 1	July 26, 2019	47
Addendum No. 2	August 6, 2019	107
Addendum No. 3	August 12, 2019	83
Addendum No. 4	August 12, 2019	17

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

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

- 1 AIA Document A132™–2009, Exhibit A, Determination of the Cost of the Work, if applicable.
- 2 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:

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Handwritten signature/initials

- 3 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- 4 Other documents, if any, listed below:
(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232–2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232–2009.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232–2009.)

(Table deleted)

Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

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


OWNER (Signature)

Jason Shelton, Mayor
(Printed name and title)


CONTRACTOR (Signature)

David Carroll, Managing Member
(Printed name and title)

Additions and Deletions Report for AIA® Document A132™ – 2009

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:26:35 ET on 10/03/2019.

PAGE 1

AGREEMENT made as of the 1st day of October in the year 2019

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City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

...

D C Services LLC
PO Box 2293
Oxford, MS 38655
Telephone Number: (662) 832-8500
Fax Number: (662) 510-0273

...

Bid Package A: Site Improvements (Bid #2019-017CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

...

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051


...

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

PAGE 2

The commencement shall be fixed in a separate Notice to Proceed.

PAGE 3

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User Notes:

(1719158127)

Bid Package A: Site Improvements

Substantial Completion and Milestone dates as indicated in
Specification Section 011000 "Summary of Work."

...

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time
milestone date is reached.

...

[X] Stipulated Sum, in accordance with Section 4.2 below

...

§ 4.2.1 The Stipulated Sum shall be Six Hundred Seventy Eight Thousand Dollars (\$ 678,000.), subject to additions
and deletions as provided in the Contract Documents.

...

Bid Alternate 1: \$0

Bid Alternate 2: \$0

Bid Alternate 4: \$0

...

<u>Unit Price 1 - Removal of unsuitable soil above and beyond that in Base Bid.</u>	<u>Per cubic yard</u>	<u>\$12.00</u>
<u>Unit Price 2 - Importing additional select fill and compaction required above and beyond that in Base Bid.</u>	<u>Per cubic yard</u>	<u>\$18.00</u>

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project
Manual.

PAGE 4

Item

Allowance

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price

§ 4.3.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus
the Contractor's Fee.

§ 4.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed — percent (— %) of the standard rate paid at the
place of the Project.

§ 4.3.6 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (____%) of the standard rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.4.7 Guaranteed Maximum Price

§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed (\$ _____), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner. (Insert specific provisions if the Contractor is to participate in any savings.)

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
------	-----------

§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

...

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

...

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;

PAGE 5

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- ...

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price

§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit A, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.

§ 5.1.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take the Cost of the Work as described in Exhibit A, Determination of the Cost of the Work;
- .2 Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work described in that Section at the rate stated in that Section; or if the Contractor's Fee is stated as a fixed sum, an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;
- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Article 5 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™ 2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor 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.

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

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor 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 cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

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

§ 5.1.6.3 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 Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual 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.

§ 5.1.6.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

1. Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.10 of AIA Document A232-2009;
2. Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
3. Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
4. Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;
5. Subtract the aggregate of previous payments made by the Owner;
6. Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

~~7~~ Subtract amounts, if any, for which the Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232-2009.

~~§ 5.1.6.5~~ The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

~~§ 5.1.6.6~~ In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager or Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor 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.

~~§ 5.1.6.7~~ Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

...

Final payment will be made after receipt, review, and approval of all close-out submittals.

...

[☒] Litigation in a court of competent jurisdiction.

PAGE 6

Legal Rate %

...

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

...

David Carroll
D C Services, LLC
PO Box 2293
Oxford, MS 38655
Telephone Number: (662) 832-8500

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AIA Document A232

Section 007313

General Conditions of the Contract for
Construction, Construction Manager as Adviser
Supplementary Conditions

2009 Edition

June 2019

24

§ 9.1.4 The Specifications: See attached Exhibit A

...

§ 9.1.5 The Drawings: See attached Exhibit B

...

<u>Addendum No. 1</u>	<u>July 26, 2019</u>	<u>47</u>
<u>Addendum No. 2</u>	<u>August 6, 2019</u>	<u>107</u>
<u>Addendum No. 3</u>	<u>August 12, 2019</u>	<u>83</u>
<u>Addendum No. 4</u>	<u>August 12, 2019</u>	<u>17</u>

PAGE 8

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

...

Type of Insurance or Bond

Limit of Liability or Bond Amount (\$0.00)

Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

...


Jason Shelton, Mayor

David Carroll, Managing Member


Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:26:35 ET on 10/03/2019 under Order No. 8357033061 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.


(Signed)


(Title)


(Dated)



AGENDA REQUEST

TO: Mayor and City Council

FROM: Todd Hunt, Executive Director, BancorpSouth Arena & Conference Center

DATE March 4, 2020

SUBJECT: CONSTRUCTION CONTRACT APPROVALS

Request:

Approve contracts for our expansion project (bids were awarded on October 1, 2019)

Attachments:

A. 12 separate contracts:

- a. DC Services (Site Improvements)
- b. Shaw Services (Structural Concrete)
- c. Bush Masonry (Masonry)
- d. Harrell's Metal Works (Structural Steel)
- e. Graham Roofing (Roofing)
- f. Tull Brothers (Glass and Glazing)
- g. Acoustics and Specialties (Drywall and Paint)
- h. DC Services (General Works)
- i. FL Crane & Sons (Flooring)
- j. Fireline (Fire Protection)
- k. Kline Mechanical (Mechanical and Plumbing)
- l. Conditioned Air (Electrical)



AIA[®] Document A132[™] – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the 1st day of October in the year 2019
(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

and the Contractor:

(Name, legal status, address and other information)

Shaw Services, LLC
861 Old Highway 4 West
Holly Springs, MS 38635
Telephone Number: (662) 629-1006

for the following Project:

(Name, location and detailed description)

Bid Package B: Structural Concrete (Bid #2019-018CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

The Construction Manager:

(Name, legal status, address and other information)

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

The Architect:

(Name, legal status, address and other information)

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A232[™]–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132[™]–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132[™]–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232[™]–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

The Owner and Contractor agree as follows.

Init.

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User Notes:

(825584458)

TABLE OF ARTICLES

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

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The commencement shall be fixed in a separate Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

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

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of the Work
Bid Package B: Structural Concrete

Substantial Completion Data
Substantial Completion and Milestone dates as indicated in
Specification Section 011000 "Summary of Work."

, subject to adjustments of this Contract Time as provided in the Contract Documents.
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:
(Check the appropriate box.)

- ☒ [X] Stipulated Sum, in accordance with Section 4.2 below
- ☐ [] Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance with Section 4.3 below
- ☐ [] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be Nine hundred fifty-nine thousand, two hundred sixty-four dollars (\$ 959,264), subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

Bid Alternate 1: \$0

Bid Alternate 2: \$0

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

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

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

(Identify allowance and state exclusions, if any, from the allowance price.)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

init.

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User Notes:

(825584458)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

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

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

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

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

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

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

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

(Paragraphs deleted)

§ 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232-2009, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and
- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

Final payment will be made after receipt, review, and approval of all close-out submittals.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232-2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232-2009, the method of binding dispute resolution shall be as follows:

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

☐ Arbitration pursuant to Section 15.4 of AIA Document A232-2009.

☒ Litigation in a court of competent jurisdiction.

☐ Other: *(Specify)*

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232-2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, 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.

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232-2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232-2009 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232-2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232-2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Legal Rate %

§ 8.3 The Owner's representative:
(Name, address and other information)

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

§ 8.4 The Contractor's representative:
(Name, address and other information)

Bobby Clanton
Shaw Services, LLC
861 Old Highway 4 West
Holly Springs, MS 38635
Telephone Number: (662) 629-1006

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

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A132-2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition.

§ 9.1.2 The General Conditions are AIA Document A232-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
AIA Document A232	General Conditions of the Contract for Construction, Construction Manager as Adviser	2009 Edition	
Section 007313	Supplementary Conditions	June 2019	24

§ 9.1.4 The Specifications: See attached Exhibit A
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

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

§ 9.1.5 The Drawings: See attached Exhibit B
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
--------	-------	------

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
Addendum No. 1	July 26, 2019	47
Addendum No. 2	August 6, 2019	107
Addendum No. 3	August 12, 2019	83
Addendum No. 4	August 12, 2019	17

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

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

- 1 AIA Document A132™-2009, Exhibit A, Determination of the Cost of the Work, if applicable.
- 2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
- 3 AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- 4 Other documents, if any, listed below:

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid,

Init.

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User Notes:

(825684458)

Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232–2009.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232–2009.)

(Table deleted)

Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

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

OWNER (Signature)

Jason Shelton, Mayor

(Printed name and title)

CONTRACTOR (Signature)

Bobby Clanton, Managing Member

(Printed name and title)

Init.

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User Notes:

(825584458)

Additions and Deletions Report for AIA® Document A132™ – 2009

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:21:54 ET on 10/03/2019.

PAGE 1

AGREEMENT made as of the 1st day of October in the year 2019

...

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

...

Shaw Services, LLC
861 Old Highway 4 West
Holly Springs, MS 38635
Telephone Number: (662) 629-1006

...

Bid Package B: Structural Concrete (Bid #2019-018CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

...

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

...

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

PAGE 2

The commencement shall be fixed in a separate Notice to Proceed.

PAGE 3

BE

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User Notes:

(825584458)

§ 4.3.6 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (____%) of the standard rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.4.7 Guaranteed Maximum Price

§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed _____ (\$ _____), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.
(Insert specific provisions if the Contractor is to participate in any savings.)

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
------	-----------

§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

PAGE 4

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

...

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;

...

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and

PAGE 5

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

§ 5.1.5-Progress Payments-Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price

§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit A, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.

§ 5.1.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- 1 — Take the Cost of the Work as described in Exhibit A, Determination of the Cost of the Work;
- 2 — Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work described in that Section at the rate stated in that Section; or if the Contractor's Fee is stated as a fixed sum, an amount which bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- 3 — Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;
- 4 — Subtract the aggregate of previous payments made by the Owner;
- 5 — Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Article 5 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- 6 — Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

~~§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with these agreements.~~

~~§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor 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.~~

~~§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.~~

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

~~§ 5.1.6.1 With each Application for Payment, the Contractor 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 cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor, less (2) that portion of those payments attributable to the Contractor's Fee, plus (3) payrolls for the period covered by the present Application for Payment.~~

~~§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Construction Manager and Architect may require. This schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.~~

~~§ 5.1.6.3 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 Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual 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.~~

~~§ 5.1.6.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

- ~~1. Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.10 of AIA Document A232-2009;~~
- ~~2. Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;~~
- ~~3. Add the Contractor's Fee, less retainage of — percent (—%). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~4. Subtract retainage of — percent (—%) from that portion of the Work that the Contractor self-performs;~~
- ~~5. Subtract the aggregate of previous payments made by the Owner;~~
- ~~6. Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~

~~7~~ Subtract amounts, if any, for which the Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232-2009.

~~§ 5.1.6.5~~ The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

~~§ 5.1.6.6~~ In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager or Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor 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.

~~§ 5.1.6.7~~ Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

...

Final payment will be made after receipt, review, and approval of all close-out submittals.

...

[☒] Litigation in a court of competent jurisdiction.

PAGE 6

Legal Rate %

...

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

...

Bobby Clanton
Shaw Services, LLC
861 Old Highway 4 West
Holly Springs, MS 38635
Telephone Number: (662) 629-1006
PAGE 7

AIA Document A232

Section 007313

General Conditions of the Contract for
Construction, Construction Manager as Adviser
Supplementary Conditions

2009 Edition

June 2019

24

§ 9.1.4 The Specifications: See attached Exhibit A

...

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User Notes:

(825584458)

§ 9.1.5 The Drawings: See attached Exhibit D

...

<u>Addendum No. 1</u>	<u>July 26, 2019</u>	<u>47</u>
<u>Addendum No. 2</u>	<u>August 6, 2019</u>	<u>107</u>
<u>Addendum No. 3</u>	<u>August 12, 2019</u>	<u>83</u>
<u>Addendum No. 4</u>	<u>August 12, 2019</u>	<u>17</u>

...

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A - Index of Specifications

Exhibit B - Index of Drawings

Exhibit C - Mandatory Addendum to All City of Tupelo Contracts (June 2015)

PAGE 8

Type of Insurance or Bond

Limit of Liability or Bond Amount (\$0.00)

Per Specification Section 006000 - Contract Bonds

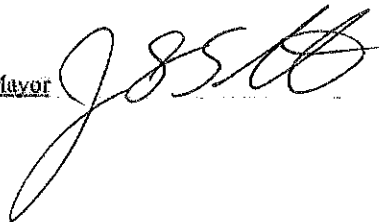
Per Specification Section 006500 - Certificate of Insurance

Per Specification Section 007213 - General Conditions

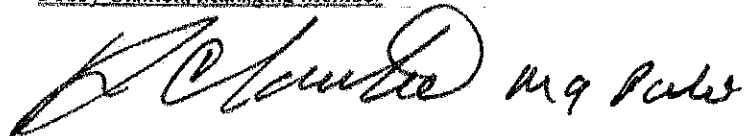
Per Specification Section 007313 - Supplementary Conditions

...

Jason Shelton, Mayor



Bobby Clanton, Managing Member



Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:21:54 ET on 10/03/2019 under Order No. 8357033061 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AGENDA REQUEST

TO: Mayor and City Council

FROM: Todd Hunt, Executive Director, BancorpSouth Arena & Conference Center

DATE March 4, 2020

SUBJECT: CONSTRUCTION CONTRACT APPROVALS

Request:

Approve contracts for our expansion project (bids were awarded on October 1, 2019)

Attachments:

A. 12 separate contracts:

- a. DC Services (Site Improvements)
- b. Shaw Services (Structural Concrete)
- c. Bush Masonry (Masonry)
- d. Harrell's Metal Works (Structural Steel)
- e. Graham Roofing (Roofing)
- f. Tull Brothers (Glass and Glazing)
- g. Acoustics and Specialties (Drywall and Paint)
- h. DC Services (General Works)
- i. FL Crane & Sons (Flooring)
- j. Fireline (Fire Protection)
- k. Kline Mechanical (Mechanical and Plumbing)
- l. Conditioned Air (Electrical)



AIA® Document A132™ – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the 1st day of October in the year 2019
(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

and the Contractor:

(Name, legal status, address and other information)

Bush Masonry, LLC
3237 South Silverwind Cove
Memphis, TN 38125
Telephone Number: (901) 451-7910

for the following Project:

(Name, location and detailed description)

Bid Package C: Masonry (Bid #2019-019CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

The Construction Manager:

(Name, legal status, address and other information)

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

The Architect:

(Name, legal status, address and other information)

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser. ^AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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User Notes:

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TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
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EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The commencement shall be fixed in a separate Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

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

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

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Portion of the Work
Bid Package C: Masonry

Substantial Completion Date
Substantial Completion and Milestone dates as indicated in
Specification Section 011000 "Summary of Work."

, subject to adjustments of this Contract Time as provided in the Contract Documents.
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:
(Check the appropriate box.)

- ☒ [X] Stipulated Sum, in accordance with Section 4.2 below
- ☐ [] Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance with Section 4.3 below
- ☐ [] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be Five hundred eighty-two thousand dollars (\$ 582,000), subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

Bid Alternate 1: \$0
Bid Alternate 2: \$0
Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

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

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

(Identify allowance and state exclusions, if any, from the allowance price.)

(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)

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(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

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

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

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

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

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

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

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

(Paragraphs deleted)

§ 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232-2009, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and
- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

Final payment will be made after receipt, review, and approval of all close-out submittals.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232-2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232-2009, the method of binding dispute resolution shall be as follows:

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

☐ Arbitration pursuant to Section 15.4 of AIA Document A232-2009.

☒ Litigation in a court of competent jurisdiction.

☐ Other: *(Specify)*

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

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§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232–2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, 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.

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232–2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232–2009 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232–2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Legal Rate %

§ 8.3 The Owner's representative:
(Name, address and other information)

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

§ 8.4 The Contractor's representative:
(Name, address and other information)

Ernie Bush
Bush Masonry, LLC
3237 South Silverwind Cove
Memphis, TN 38125
Telephone Number: (901) 451-7910

Init.

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

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A132-2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition.

§ 9.1.2 The General Conditions are AIA Document A232-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
AIA Document A232	General Conditions of the Contract for Construction, Construction Manager as Adviser	2009 Edition	
Section 007313	Supplementary Conditions	June 2019	24

§ 9.1.4 The Specifications: See attached Exhibit A
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

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

§ 9.1.5 The Drawings: See attached Exhibit B
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
--------	-------	------

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
Addendum No. 1	July 26, 2019	47
Addendum No. 2	August 6, 2019	107
Addendum No. 3	August 12, 2019	83
Addendum No. 4	August 12, 2019	17

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

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

- 1 AIA Document A132™-2009, Exhibit A, Determination of the Cost of the Work, if applicable.
- 2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
- 3 AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- 4 Other documents, if any, listed below:

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid,

Instructions to Bidders. sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232–2009.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232–2009.)

(Table deleted)


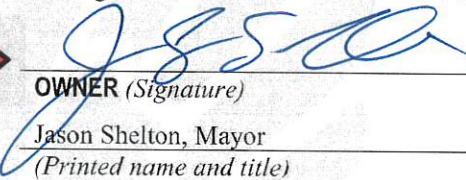
Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

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



OWNER (Signature)

Jason Shelton, Mayor

(Printed name and title)


CONTRACTOR (Signature)

Ernie Bush, President

(Printed name and title)

Init.

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Additions and Deletions Report for AIA® Document A132™ – 2009

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

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PAGE 1

AGREEMENT made as of the 1st day of October in the year 2019

...

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

...

Bush Masonry, LLC
3237 South Silverwind Cove
Memphis, TN 38125
Telephone Number: (901) 451-7910

...

Bid Package C: Masonry (Bid #2019-019CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

...

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

...

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

PAGE 2

The commencement shall be fixed in a separate Notice to Proceed.

PAGE 3

Bid Package C: Masonry

Substantial Completion and Milestone dates as indicated in
Specification Section 011000 "Summary of Work."

...

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

...

[☒] Stipulated Sum, in accordance with Section 4.2 below

...

§ 4.2.1 The Stipulated Sum shall be Five hundred eighty-two thousand dollars (\$ 582,000), subject to additions and deletions as provided in the Contract Documents.

...

Bid Alternate 1: \$0

Bid Alternate 2: \$0

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

...

Item

Units and Limitations

Price per Unit (\$0.00)

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

...

Item

Allowance

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price

§ 4.3.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.3.5 Rental rates for Contractor owned equipment shall not exceed — percent (— %) of the standard rate paid at the place of the Project.

§ 4.3.6 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (____ %) of the standard rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.4.7 Guaranteed Maximum Price

§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed (\$ _____), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner. (Insert specific provisions if the Contractor is to participate in any savings.)

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
------	-----------

§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

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

...

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;

...

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price

§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit A, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.

§ 5.1.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take the Cost of the Work as described in Exhibit A, Determination of the Cost of the Work;
- .2 Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work described in that Section at the rate stated in that Section; or if the Contractor's Fee is stated as a fixed sum, an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;
- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Article 5 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™ 2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor 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.

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

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor 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 cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

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

§ 5.1.6.3 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 Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual 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.

§ 5.1.6.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

1. Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.10 of AIA Document A232-2009;
2. Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
3. Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
4. Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;
5. Subtract the aggregate of previous payments made by the Owner;
6. Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.7 Subtract amounts, if any, for which the Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232-2009.

~~§ 5.1.6.5 The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.~~

~~§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager or Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor 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.~~

~~§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.~~

...

Final payment will be made after receipt, review, and approval of all close-out submittals.

...

[☒] Litigation in a court of competent jurisdiction.

PAGE 6

Legal Rate %

...

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

...

Ernie Bush
Bush Masonry, LLC
3237 South Silverwind Cove
Memphis, TN 38125
Telephone Number: (901) 451-7910

PAGE 7

AIA Document A232

General Conditions of the Contract for
Construction, Construction Manager as Adviser
Supplementary Conditions

2009 Edition

Section 007313

June 2019

24

§ 9.1.4 The Specifications: See attached Exhibit A

...

§ 9.1.5 The Drawings: See attached Exhibit B

...

<u>Addendum No. 1</u>	<u>July 26, 2019</u>	<u>47</u>
<u>Addendum No. 2</u>	<u>August 6, 2019</u>	<u>107</u>
<u>Addendum No. 3</u>	<u>August 12, 2019</u>	<u>83</u>
<u>Addendum No. 4</u>	<u>August 12, 2019</u>	<u>17</u>

...

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

PAGE 8

Type of Insurance or Bond

Limit of Liability or Bond Amount (\$0.00)


Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

 Jason Shelton, Mayor

Ernie Bush, President 



AGENDA REQUEST

TO: Mayor and City Council

FROM: Todd Hunt, Executive Director, BancorpSouth Arena & Conference Center

DATE March 4, 2020

SUBJECT: CONSTRUCTION CONTRACT APPROVALS

Request:

Approve contracts for our expansion project (bids were awarded on October 1, 2019)

Attachments:

A. 12 separate contracts:

- a. DC Services (Site Improvements)
- b. Shaw Services (Structural Concrete)
- c. Bush Masonry (Masonry)
- d. Harrell's Metal Works (Structural Steel)
- e. Graham Roofing (Roofing)
- f. Tull Brothers (Glass and Glazing)
- g. Acoustics and Specialties (Drywall and Paint)
- h. DC Services (General Works)
- i. FL Crane & Sons (Flooring)
- j. Fireline (Fire Protection)
- k. Kline Mechanical (Mechanical and Plumbing)
- l. Conditioned Air (Electrical)

AIA[®] Document A132[™] – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the 1st day of October in the year 2019
(In words, indicate day, month and year.)

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

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

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

Harrell's Metal Works, Inc.
1798 Hwy 332
Grenada, MS 38901
Telephone Number: (662) 226-0982

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

Bid Package D: Structural Steel (Bid #2019-020CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

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

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

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

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A232[™]-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132[™]-2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132[™]-2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser. [^]AIA Document A232[™]-2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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User Notes:

TABLE OF ARTICLES

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

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.
(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The commencement shall be fixed in a separate Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

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

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

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Additions and Deletions Report for AIA® Document A132™ – 2009

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:21:23 ET on 10/03/2019.

PAGE 1

AGREEMENT made as of the 1st day of October in the year 2019

...
City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

...
Harrell's Metal Works, Inc.
1798 Hwy 332
Grenada, MS 38901
Telephone Number: (662) 226-0982

...
Bid Package D: Structural Steel (Bid #2019-020CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

...
Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

...
McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400
PAGE 2

The commencement shall be fixed in a separate Notice to Proceed.
PAGE 3

...
Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

...
[☒] Stipulated Sum, in accordance with Section 4.2 below

...
§ 4.2.1 The Stipulated Sum shall be Nine hundred forty thousand, seven hundred twenty-eight dollars (\$ 940,728), subject to additions and deletions as provided in the Contract Documents.

...
Bid Alternate 1: Fifteen thousand dollars (\$15,000)

Bid Alternate 2: \$0

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

...
Item Units and Limitations Price per Unit (\$0.00)

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

...
Item Allowance

§ 4.3 ~~Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price~~

§ 4.3.1 ~~The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.~~

§ 4.3.2 ~~The Contractor's Fee:~~

~~(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)~~

§ 4.3.3 ~~The method of adjustment of the Contractor's Fee for changes in the Work:~~

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

§ 4.3.5 ~~Rental rates for Contractor-owned equipment shall not exceed percent (%) of the standard rate paid at the place of the Project.~~

§ 4.3.6 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.		

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (____ %) of the standard rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
§ 4.4.7 Guaranteed Maximum Price		
§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed _____ (\$ _____), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner. (Insert specific provisions if the Contractor is to participate in any savings.)		

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:	

Portion of the Work
Bid Package D: Structural Steel

Substantial Completion Date
Substantial Completion and Milestone dates as indicated in
Specification Section 011000 "Summary of Work."

, subject to adjustments of this Contract Time as provided in the Contract Documents.
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for
bonus payments for early completion of the Work.)

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time
milestone date is reached.

ARTICLE 4. CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
Contract. The Contract Sum shall be one of the following:
(Check the appropriate box.)

- ☒ [X] Stipulated Sum, in accordance with Section 4.2 below
- ☐ [] Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance
with Section 4.3 below
- ☐ [] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with
Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete
either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be Nine hundred forty thousand, seven hundred twenty-eight dollars (\$ 940,728),
subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents
and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the
Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other
alternates showing the amount for each and the date when that amount expires.)

Bid Alternate 1: Fifteen thousand dollars (\$15,000)

Bid Alternate 2: \$0

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

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

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project
Manual.

(Identify allowance and state exclusions, if any, from the allowance price.)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

Init.

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User Notes:

(1949715766)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

§ 5.1.3 Provided that an Application for Payment is received by the Construction Manager not later than the twenty-fifth day of a month, the Owner shall make payment of the certified amount in the Application for Payment to the Contractor not later than the twenty-fifth day of the following month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment shall be made by the Owner not later than forty-five (45) days after the Construction Manager receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

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

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- 1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- 2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (%);
- 3 Subtract the aggregate of previous payments made by the Owner; and
- 4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- 1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- 2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

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

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(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

(Paragraphs deleted)

§ 5.2 Final Payment

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

- 1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232-2009, and to satisfy other requirements, if any, which extend beyond final payment;
- 2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and
- 3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

Final payment will be made after receipt, review, and approval of all close-out submittals.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232-2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker. (If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232-2009, the method of binding dispute resolution shall be as follows:

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

☐ Arbitration pursuant to Section 15.4 of AIA Document A232-2009.

☒ Litigation in a court of competent jurisdiction.

☐ Other: (Specify)

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

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User Notes:

(1949715766)

§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232-2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:

1. Take the Cost of the Work incurred by the Contractor to the date of termination;
2. Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, 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.

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232-2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232-2009 shall not cause the Guaranteed Maximum Price to be exceeded; nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232-2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232-2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Legal Rate %

§ 8.3 The Owner's representative:
(Name, address and other information)

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

§ 8.4 The Contractor's representative:
(Name, address and other information)

Randy Harrell
Harrell's Metal Works, Inc.
1798 Hwy 332
Grenada, MS 38901
Telephone Number: (662) 226-0982

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

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A132-2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition.

§ 9.1.2 The General Conditions are AIA Document A232-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
AIA Document A232	General Conditions of the Contract for Construction, Construction Manager as Adviser	2009 Edition	
Section 007313	Supplementary Conditions	June 2019	24

§ 9.1.4 The Specifications: See attached Exhibit A
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages
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§ 9.1.5 The Drawings: See attached Exhibit B
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
--------	-------	------

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
Addendum No. 1	July 26, 2019	47
Addendum No. 2	August 6, 2019	107
Addendum No. 3	August 12, 2019	83
Addendum No. 4	August 12, 2019	17

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

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

- 1 AIA Document A132™-2009, Exhibit A, Determination of the Cost of the Work, if applicable.
- 2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
- 3 AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- 4 Other documents, if any, listed below:

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid,

Init.

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Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C – Mandatory Addendum to All City of Tupelo Contracts (June 2015)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232-2009.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232-2009.)

(Table deleted)

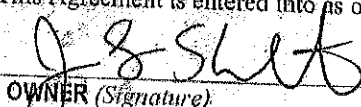
Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

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


OWNER (Signature)

Jason Shelton, Mayor

(Printed name and title)


CONTRACTOR (Signature)

Randy Harrell, President

(Printed name and title)

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(1949715766)



AGENDA REQUEST

TO: Mayor and City Council

FROM: Todd Hunt, Executive Director, BancorpSouth Arena & Conference Center

DATE March 4, 2020

SUBJECT: CONSTRUCTION CONTRACT APPROVALS

Request:

Approve contracts for our expansion project (bids were awarded on October 1, 2019)

Attachments:

A. 12 separate contracts:

- a. DC Services (Site Improvements)
- b. Shaw Services (Structural Concrete)
- c. Bush Masonry (Masonry)
- d. Harrell's Metal Works (Structural Steel)
- e. Graham Roofing (Roofing)
- f. Tull Brothers (Glass and Glazing)
- g. Acoustics and Specialties (Drywall and Paint)
- h. DC Services (General Works)
- i. FL Crane & Sons (Flooring)
- j. Fireline (Fire Protection)
- k. Kline Mechanical (Mechanical and Plumbing)
- l. Conditioned Air (Electrical)

AIA[®] Document A132[™] – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the 1st day of October in the year 2019
(In words, indicate day, month and year.)

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

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

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

Graham Roofing, Inc.
136 Bauhaus Drive
Slatillo, MS 38866
Telephone Number: (662) 869-0012

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

Bid Package E: Roofing (Bid #2019-021CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

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

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

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

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A232[™]–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132[™]–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132[™]–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232[™]–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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User Notes:

(1716088423)

TABLE OF ARTICLES

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

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The commencement shall be fixed in a separate Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

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

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of the Work
Bid Package E: Roofing

Substantial Completion Date
Substantial Completion and Milestone dates as indicated in
Specification Section 011000 "Summary of Work."

, subject to adjustments of this Contract Time as provided in the Contract Documents.
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for
bonus payments for early completion of the Work.)

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time
milestone date is reached.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the
Contract. The Contract Sum shall be one of the following:
(Check the appropriate box.)

- ☒ [X] Stipulated Sum, in accordance with Section 4.2 below
- ☐ [] Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance
with Section 4.3 below
- ☐ [] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with
Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete
either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be Four hundred ninety-seven thousand, one hundred twenty seven dollars (\$ 497,127
, subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents
and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the
Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other
alternates showing the amount for each and the date when that amount expires.)

Bid Alternate 1: One hundred seventy thousand, nine hundred twenty-six dollars (\$170,926)

Bid Alternate 2: \$0

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

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

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project
Manual.

(Identify allowance and state exclusions, if any, from the allowance price.)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

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User Notes:

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(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

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

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

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

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

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (0 %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

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

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(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

(Paragraphs deleted)

§ 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232-2009, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and
- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

Final payment will be made after receipt, review, and approval of all close-out submittals.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232-2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232-2009, the method of binding dispute resolution shall be as follows:

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

☐ Arbitration pursuant to Section 15.4 of AIA Document A232-2009.

☒ Litigation in a court of competent jurisdiction.

☐ Other: *(Specify)*

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

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§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232-2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, 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.

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232-2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232-2009 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232-2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232-2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Legal Rate %

§ 8.3 The Owner's representative:
(Name, address and other information)

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

§ 8.4 The Contractor's representative:
(Name, address and other information)

Graham Roofing, Inc.
136 Bauhaus Drive
Saltillo, MS 38866
Telephone Number: (662) 869-0012

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Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

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(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232-2009.)

(Table deleted)

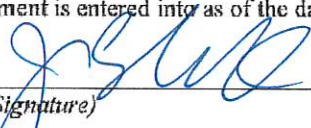
Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

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


OWNER (Signature)

Jason Shelton, Mayor

(Printed name and title)


CONTRACTOR (Signature)

Jonathan Poland, VP/owner

(Printed name and title)

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Additions and Deletions Report for AIA® Document A132™ – 2009

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:20:52 ET on 10/03/2019.

PAGE 1

AGREEMENT made as of the 1st day of October in the year 2019

...

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

...

Graham Roofing, Inc.
136 Bauhaus Drive
Saltillo, MS 38866
Telephone Number: (662) 869-0012

...

Bid Package E: Roofing (Bid #2019-021CO)
Bancorpsouth Arcna and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

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Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38855
Telephone Number: 662-550-3051

...

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400
PAGE 2

The commencement shall be fixed in a separate Notice to Proceed.
PAGE 3

Bid Package E: Roofing

Substantial Completion and Milestone dates as indicated in

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User Notes:

(1718088423)

Specification Section 011000 "Summary of Work."

...

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

...

[X] Stipulated Sum, in accordance with Section 4.2 below

...

§ 4.2.1 The Stipulated Sum shall be Four hundred ninety-seven thousand, one hundred twenty seven dollars (\$ 497,127), subject to additions and deletions as provided in the Contract Documents.

...

Bid Alternate 1: One hundred seventy thousand, nine hundred twenty-six dollars (\$170,926)
Bid Alternate 2: \$0
Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

...

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

...

Item	Allowance
------	-----------

~~§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price~~

~~§ 4.3.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.~~

~~§ 4.3.2 The Contractor's Fee:~~

~~(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)~~

~~§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (____%) of the standard rate paid at the place of the Project.~~

~~§ 4.3.6 Unit prices, if any:~~

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(1716068423)

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (____%) of the standard rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.4.7 Guaranteed Maximum Price

§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed _____ (\$ _____), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner. (Insert specific provisions if the Contractor is to participate in any savings.)

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
------	-----------

§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

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

...

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;

...

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price

~~§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit A, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.~~

~~§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~§ 5.1.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

- ~~.1 Take the Cost of the Work as described in Exhibit A, Determination of the Cost of the Work;~~
- ~~.2 Add the Contractor's Fee, less retainage of percent (%). The Contractor's Fee shall be computed upon the Cost of the Work described in that Section at the rate stated in that Section; or if the Contractor's Fee is stated as a fixed sum, an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~.3 Subtract retainage of percent (%) from that portion of the Work that the Contractor self-performs;~~
- ~~.4 Subtract the aggregate of previous payments made by the Owner;~~
- ~~.5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Article 5 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~.6 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™ 2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.~~

~~§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.~~

~~§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor 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.~~

~~§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.~~

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

~~§ 5.1.6.1 With each Application for Payment, the Contractor 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 cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.~~

~~§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Construction Manager and Architect may require. This schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.~~

~~§ 5.1.6.3 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 Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual 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.~~

~~§ 5.1.6.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

- ~~1. Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.10 of AIA Document A232-2009;~~
- ~~2. Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;~~
- ~~3. Add the Contractor's Fee, less retainage of percent (%). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~4. Subtract retainage of percent (%) from that portion of the Work that the Contractor self-performs;~~
- ~~5. Subtract the aggregate of previous payments made by the Owner;~~
- ~~6. Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~

~~7~~ Subtract amounts, if any, for which the Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232-2009.

~~§ 5.1.6.5 The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with these agreements.~~

~~§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager or Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor 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.~~

~~§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.~~

...

Final payment will be made after receipt, review, and approval of all close-out submittals.

...

[☒] Litigation in a court of competent jurisdiction.

PAGE 6

Legal Rate % 0

...

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

...

Graham Roofing, Inc.
136 Bauhaus Drive
Saltillo, MS 38866
Telephone Number: (662) 869-0012
PAGE 7

AIA Document A232

General Conditions of the Contract for
Construction, Construction Manager as Adviser
Supplementary Conditions

2009 Edition

June 2019

24

§ 9.1.4 The Specifications: See attached Exhibit A

...

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User Notes:

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§ 9.1.5 The Drawings: See attached Exhibit B

...

<u>Addendum No. 1</u>	<u>July 26, 2019</u>	<u>47</u>
<u>Addendum No. 2</u>	<u>August 6, 2019</u>	<u>107</u>
<u>Addendum No. 3</u>	<u>August 12, 2019</u>	<u>83</u>
<u>Addendum No. 4</u>	<u>August 12, 2019</u>	<u>17</u>

...

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

PAGE 8

~~Type of Insurance or Bond~~

~~Limit of Liability or Bond Amount (\$0.00)~~

Per Specification Section 006000 – Contract Bonds


Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

...

Jason Shelton, Mayor

 Jason P. Shelton - VP

8



AGENDA REQUEST

TO: Mayor and City Council

FROM: Todd Hunt, Executive Director, BancorpSouth Arena & Conference Center

DATE March 4, 2020

SUBJECT: CONSTRUCTION CONTRACT APPROVALS

Request:

Approve contracts for our expansion project (bids were awarded on October 1, 2019)

Attachments:

A. 12 separate contracts:

- a. DC Services (Site Improvements)
- b. Shaw Services (Structural Concrete)
- c. Bush Masonry (Masonry)
- d. Harrell's Metal Works (Structural Steel)
- e. Graham Roofing (Roofing)
- f. Tull Brothers (Glass and Glazing)
- g. Acoustics and Specialties (Drywall and Paint)
- h. DC Services (General Works)
- i. FL Crane & Sons (Flooring)
- j. Fireline (Fire Protection)
- k. Kline Mechanical (Mechanical and Plumbing)
- l. Conditioned Air (Electrical)

AIA® Document A132™ – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the 1st day of October in the year 2019
(In words, indicate day, month and year.)

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

BancorpSouth Arena
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

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

Tull Brothers, Inc.
1111 Hwy 72 East
Corinth, MS 38834
Telephone Number: (662) 287-4477

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

Bid Package F: Glass and Glazing (Bid #2019-022CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

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

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

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

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser. ^AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.


Init.

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(1935161209)

TABLE OF ARTICLES

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

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The commencement shall be fixed in a separate Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

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

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Init.

Portion of the Work
Bid Package F: Glass and Glazing

Substantial Completion Date
Substantial Completion and Milestone dates as indicated in
Specification Section 011000 "Summary of Work."

, subject to adjustments of this Contract Time as provided in the Contract Documents.
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:
(Check the appropriate box.)

- ☒ [X] Stipulated Sum, in accordance with Section 4.2 below
- ☐ [] Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance with Section 4.3 below
- ☐ [] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be Nine hundred seventy-eight thousand, three hundred forty-three dollars (\$ 978,343), subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

Bid Alternate 1: \$0

Bid Alternate 2: One thousand, seven hundred eighty-eight dollars (\$1,788)

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

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

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

(Identify allowance and state exclusions, if any, from the allowance price.)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

Init.

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User Notes:

(1935161209)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

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

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

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

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

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

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

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

(Paragraphs deleted)

§ 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232-2009, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and
- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

Final payment will be made after receipt, review, and approval of all close-out submittals.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232-2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232-2009, the method of binding dispute resolution shall be as follows:

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

☐ Arbitration pursuant to Section 15.4 of AIA Document A232-2009.

☒ Litigation in a court of competent jurisdiction.

☐ Other: *(Specify)*

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

Init.

§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232-2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, 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.

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232-2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232-2009 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232-2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232-2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Legal Rate %

§ 8.3 The Owner's representative:
(Name, address and other information)

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

§ 8.4 The Contractor's representative:
(Name, address and other information)

Fred Tull
Tull Brothers, Inc.
1111 Hwy 72 East
Corinth, MS 38834
Telephone Number: (662) 287-4477

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

Init.

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A132–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition.

§ 9.1.2 The General Conditions are AIA Document A232–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
AIA Document A232	General Conditions of the Contract for Construction, Construction Manager as Adviser	2009 Edition	
Section 007313	Supplementary Conditions	June 2019	24

§ 9.1.4 The Specifications: See attached Exhibit A
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

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

§ 9.1.5 The Drawings: See attached Exhibit B
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
--------	-------	------

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
Addendum No. 1	July 26, 2019	47
Addendum No. 2	August 6, 2019	107
Addendum No. 3	August 12, 2019	83
Addendum No. 4	August 12, 2019	17

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

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

- 1 AIA Document A132™–2009, Exhibit A, Determination of the Cost of the Work, if applicable.
- 2 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:
- 3 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- 4 Other documents, if any, listed below:

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232–2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents)

unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232–2009.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232–2009.)

(Table deleted)

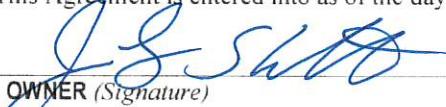
Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

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


OWNER (Signature)

Jason Shelton, Mayor

(Printed name and title)


CONTRACTOR (Signature)

Fred Tull, President

(Printed name and title)



Init.

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User Notes:

(1935161209)

Additions and Deletions Report for **AIA[®] Document A132[™] – 2009**

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:37:29 ET on 10/02/2019.

PAGE 1

AGREEMENT made as of the 1st day of October in the year 2019

...

BancorpSouth Arena
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

...

Tull Brothers, Inc.
1111 Hwy 72 East
Corinth, MS 38834
Telephone Number: (662) 287-4477

...

Bid Package F: Glass and Glazing (Bid #2019-022CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

...

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

...

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

PAGE 2

The commencement shall be fixed in a separate Notice to Proceed.

PAGE 3

Bid Package F: Glass and Glazing

Substantial Completion and Milestone dates as indicated in
Specification Section 011000 "Summary of Work."

...

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time
milestone date is reached.

...

[X] Stipulated Sum, in accordance with Section 4.2 below

...

§ 4.2.1 The Stipulated Sum shall be Nine hundred seventy-eight thousand, three hundred forty-three dollars (\$
978,343), subject to additions and deletions as provided in the Contract Documents.

...

Bid Alternate 1: \$0

Bid Alternate 2: One thousand, seven hundred eighty-eight dollars (\$1,788)

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

...

Item	Units and Limitations	Price per Unit (\$0.00)
§ 4.2.4 Allowances included in the Stipulated Sum, if any: <u>Refer to Section 012100 "Allowances" in the Project Manual.</u>		

...

Item	Allowance
------	-----------

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price

§ 4.3.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed —percent (—%) of the standard rate paid at the place of the Project.

§ 4.3.6 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (____%) of the standard rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.4.7 Guaranteed Maximum Price

§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed (\$ _____), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.
(Insert specific provisions if the Contractor is to participate in any savings.)

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
------	-----------

§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

PAGE 4

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

...

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;

...

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and

PAGE 5

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price

§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit A, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.

§ 5.1.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take the Cost of the Work as described in Exhibit A, Determination of the Cost of the Work;
- .2 Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work described in that Section at the rate stated in that Section; or if the Contractor's Fee is stated as a fixed sum, an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;
- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Article 5 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™ 2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor 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.

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

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor 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 cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

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

§ 5.1.6.3 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 Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual 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.

§ 5.1.6.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.10 of AIA Document A232-2009;
- .2 Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

7 — Subtract amounts, if any, for which the Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232-2009.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager or Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor 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.

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

...

Final payment will be made after receipt, review, and approval of all close-out submittals.

...

[☒] Litigation in a court of competent jurisdiction.
PAGE 6

Legal Rate %

...

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

...

Fred Tull
Tull Brothers, Inc.
1111 Hwy 72 East
Corinth, MS 38834
Telephone Number: (662) 287-4477
PAGE 7

AIA Document A232
Section 007313

General Conditions of the Contract for
Construction, Construction Manager as Adviser
Supplementary Conditions

2009 Edition
June 2019 24

§ 9.1.4 The Specifications: See attached Exhibit A

...

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User Notes:

(1935161209)

§ 9.1.5 The Drawings: See attached Exhibit B

...

<u>Addendum No. 1</u>	<u>July 26, 2019</u>	<u>47</u>
<u>Addendum No. 2</u>	<u>August 6, 2019</u>	<u>107</u>
<u>Addendum No. 3</u>	<u>August 12, 2019</u>	<u>83</u>
<u>Addendum No. 4</u>	<u>August 12, 2019</u>	<u>17</u>

...

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232 - 2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A - Index of Specifications

Exhibit B - Index of Drawings

Exhibit C -Mandatory Addendum to All City of Tupelo Contracts (June 2015)

PAGE 8

~~Type of Insurance or Bond~~

~~Limit of Liability or Bond Amount (\$0.00)~~

Per Specification Section 006000 - Contract Bonds

Per Specification Section 006500 - Certificate of Insurance

Per Specification Section 007213 - General Conditions

Per Specification Section 007313 - Supplementary Conditions

...

Jason Shelton, Mayor



Fred Tull, President



Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:37:29 ET on 10/02/2019 under Order No. 8357033061 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)



Fred L. Tull, President

(Title)

11/07/19

(Dated)



AGENDA REQUEST

TO: Mayor and City Council

FROM: Todd Hunt, Executive Director, BancorpSouth Arena & Conference Center

DATE March 4, 2020

SUBJECT: CONSTRUCTION CONTRACT APPROVALS

Request:

Approve contracts for our expansion project (bids were awarded on October 1, 2019)

Attachments:

A. 12 separate contracts:

- a. DC Services (Site Improvements)
- b. Shaw Services (Structural Concrete)
- c. Bush Masonry (Masonry)
- d. Harrell's Metal Works (Structural Steel)
- e. Graham Roofing (Roofing)
- f. Tull Brothers (Glass and Glazing)
- g. Acoustics and Specialties (Drywall and Paint)
- h. DC Services (General Works)
- i. FL Crane & Sons (Flooring)
- j. Fireline (Fire Protection)
- k. Kline Mechanical (Mechanical and Plumbing)
- l. Conditioned Air (Electrical)

AIA® Document A132™ – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the 1st day of October in the year 2019
(In words, indicate day, month and year.)

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

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

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

D C Services LLC
PO Box 2293
Oxford, MS 38655
Telephone Number: (662) 832-8500
Fax Number: (662) 510-0273

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

Bid Package H: General Works (Bid #2019-024CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

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

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

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

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser. ^AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

The Owner and Contractor agree as follows.

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TABLE OF ARTICLES

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

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The commencement shall be fixed in a separate Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

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

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

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Portion of the Work
Bid Package H: General Works

Substantial Completion Date
Substantial Completion and Milestone dates as indicated in Specification Section 011000 "Summary of Work."

, subject to adjustments of this Contract Time as provided in the Contract Documents.
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:
(Check the appropriate box.)

- ☒ [X] Stipulated Sum, in accordance with Section 4.2 below
- ☐ [] Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance with Section 4.3 below
- ☐ [] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be One million, four hundred sixty-six thousand dollars (\$ 1,466,000), subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

Bid Alternate 1: Thirteen thousand dollars (\$13,000)
Bid Alternate 2: Fifty thousand dollars (\$50,000)
Bid Alternate 4: \$0


§ 4.2.3 Unit prices, if any: N/A

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

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

(Identify allowance and state exclusions, if any, from the allowance price.)

(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)

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(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

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

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

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

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

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

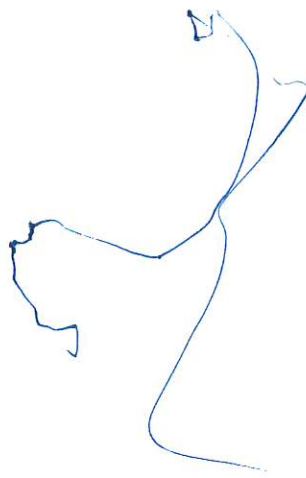
§ 5.1.4.5 Reduction or limitation of retainage, if any, shall be as follows:

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(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

(Paragraphs deleted)

§ 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232-2009, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and
- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

Final payment will be made after receipt, review, and approval of all close-out submittals.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232-2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232-2009, the method of binding dispute resolution shall be as follows:

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

☐ Arbitration pursuant to Section 15.4 of AIA Document A232-2009.

☒ Litigation in a court of competent jurisdiction.

☐ Other: *(Specify)*

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

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§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232-2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, 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.

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232-2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232-2009 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232-2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232-2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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


Legal Rate %

§ 8.3 The Owner's representative:
(Name, address and other information)

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

§ 8.4 The Contractor's representative:
(Name, address and other information)

David Carroll
D C Services LLC
PO Box 2293
Oxford, MS 38655
Telephone Number: (662) 832-8500
Fax Number: (662) 510-0273

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

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A132-2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition.

§ 9.1.2 The General Conditions are AIA Document A232-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
AIA Document A232	General Conditions of the Contract for Construction, Construction Manager as Adviser	2009 Edition	
Section 007313	Supplementary Conditions	June 2019	24

§ 9.1.4 The Specifications: See attached Exhibit A
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

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

§ 9.1.5 The Drawings: See attached Exhibit B
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
--------	-------	------

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
Addendum No. 1	July 26, 2019	47
Addendum No. 2	August 6, 2019	107
Addendum No. 3	August 12, 2019	83
Addendum No. 4	August 12, 2019	17

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

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

- .1 AIA Document A132™-2009, Exhibit A, Determination of the Cost of the Work, if applicable.
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
- .3 AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- .4 Other documents, if any, listed below:
(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid,

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Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232–2009.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232–2009.)

(Table deleted)


Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

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



OWNER (Signature)

Jason Shelton, Mayor
(Printed name and title)



CONTRACTOR (Signature)

David Carroll, Managing Member
(Printed name and title)

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Additions and Deletions Report for **AIA® Document A132™ – 2009**

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:20:12 ET on 10/03/2019.

PAGE 1

AGREEMENT made as of the 1st day of October in the year 2019

...

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

...

D C Services LLC
PO Box 2293
Oxford, MS 38655
Telephone Number: (662) 832-8500
Fax Number: (662) 510-0273

...

Bid Package H: General Works (Bid #2019-024CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

...

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

...

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

PAGE 2

The commencement shall be fixed in a separate Notice to Proceed.

PAGE 3

Bid Package H: General Works

Substantial Completion and Milestone dates as indicated in
Specification Section 011000 "Summary of Work."

...

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time
milestone date is reached.

...

[X] Stipulated Sum, in accordance with Section 4.2 below

...

§ 4.2.1 The Stipulated Sum shall be One million, four hundred sixty-six thousand dollars (\$ 1,466,000), subject to
additions and deletions as provided in the Contract Documents.

...

Bid Alternate 1: Thirteen thousand dollars (\$13,000)

Bid Alternate 2: Fifty thousand dollars (\$50,000)

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

...

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project
Manual.

...

Item	Allowance
------	-----------

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price

~~§ 4.3.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus
the Contractor's Fee.~~

~~§ 4.3.2 The Contractor's Fee:~~

~~(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)~~

~~§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (_____ %) of the standard rate paid at the
place of the Project.~~

§ 4.3.6 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (____%) of the standard rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.4.7 Guaranteed Maximum Price

§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed _____ (\$ _____), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner. *(Insert specific provisions if the Contractor is to participate in any savings.)*

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
------	-----------

§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

PAGE 4

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

...

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;

...

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and

PAGE 5

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price

§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit A, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor, less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.

§ 5.1.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- ~~.1 Take the Cost of the Work as described in Exhibit A, Determination of the Cost of the Work;~~
- ~~.2 Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work described in that Section at the rate stated in that Section; or if the Contractor's Fee is stated as a fixed sum, an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~.3 Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self performs;~~
- ~~.4 Subtract the aggregate of previous payments made by the Owner;~~
- ~~.5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Article 5 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~.6 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™ 2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.~~

§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor 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.

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

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor 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 cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

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

§ 5.1.6.3 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 Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual 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.

§ 5.1.6.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

1. Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.10 of AIA Document A232-2009;
2. Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
3. Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
4. Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;
5. Subtract the aggregate of previous payments made by the Owner;
6. Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

7 Subtract amounts, if any, for which the Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232-2009.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager or Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor 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.

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

...

Final payment will be made after receipt, review, and approval of all close-out submittals.

...

[☒] Litigation in a court of competent jurisdiction.

PAGE 6

Legal Rate %

...

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

...

David Carroll
D C Services LLC
PO Box 2293
Oxford, MS 38655
Telephone Number: (662) 832-8500
Fax Number: (662) 510-0273
PAGE 7

AIA Document A232

Section 007313

General Conditions of the Contract for
Construction, Construction Manager as Adviser
Supplementary Conditions


2009 Edition

June 2019

24

§ 9.1.4 The Specifications: See attached Exhibit A

...

 Additions and Deletions Report for AIA Document A132™ – 2009 (formerly A101™CMA – 1992). Copyright © 1975, 1980, 1992 and 2009 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 16:20:12 ET on 10/03/2019 under Order No.8357033061 which expires on 06/11/2020, and is not for resale.

User Notes:

(1111710056)

§ 9.1.5 The Drawings: See attached Exhibit B

...

<u>Addendum No. 1</u>	<u>July 26, 2019</u>	<u>47</u>
<u>Addendum No. 2</u>	<u>August 6, 2019</u>	<u>107</u>
<u>Addendum No. 3</u>	<u>August 12, 2019</u>	<u>83</u>
<u>Addendum No. 4</u>	<u>August 12, 2019</u>	<u>17</u>

...

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

PAGE 8

Type of Insurance or Bond

Limit of Liability or Bond Amount (\$0.00)

Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

...


Jason Shelton, Mayor



David Carroll, Managing Member

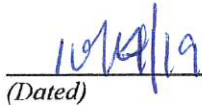
Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:20:12 ET on 10/03/2019 under Order No. 8357033061 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.


(Signed)


(Title)


(Dated)



AGENDA REQUEST

TO: Mayor and City Council

FROM: Todd Hunt, Executive Director, BancorpSouth Arena & Conference Center

DATE March 4, 2020

SUBJECT: CONSTRUCTION CONTRACT APPROVALS

Request:

Approve contracts for our expansion project (bids were awarded on October 1, 2019)

Attachments:

A. 12 separate contracts:

- a. DC Services (Site Improvements)
- b. Shaw Services (Structural Concrete)
- c. Bush Masonry (Masonry)
- d. Harrell's Metal Works (Structural Steel)
- e. Graham Roofing (Roofing)
- f. Tull Brothers (Glass and Glazing)
- g. Acoustics and Specialties (Drywall and Paint)
- h. DC Services (General Works)
- i. FL Crane & Sons (Flooring)
- j. Fireline (Fire Protection)
- k. Kline Mechanical (Mechanical and Plumbing)
- l. Conditioned Air (Electrical)

AIA[®] Document A132[™] – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the 1st day of October in the year 2019
(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

and the Contractor:

(Name, legal status, address and other information)

F L Crane & Sons, Inc.
508 Spring Street
Fulton, MS 38843
Telephone Number: (662) 862-2172

for the following Project:

(Name, location and detailed description)

Bid Package I: Flooring (Bid #2019-025CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

The Construction Manager:

(Name, legal status, address and other information)

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

The Architect:

(Name, legal status, address and other information)

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A232[™]–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132[™]–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132[™]–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser. [^]AIA Document A232[™]–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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User Notes:

(1815492193)

TABLE OF ARTICLES

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

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The commencement shall be fixed in a separate Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

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

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Init.

Portion of the Work
Bid Package I: Flooring

Substantial Completion Date
Substantial Completion and Milestone dates as indicated in
Specification Section 011000 "Summary of Work."

, subject to adjustments of this Contract Time as provided in the Contract Documents.
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:

(Check the appropriate box.)

- ☒ [X] Stipulated Sum, in accordance with Section 4.2 below
- ☐ [] Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance with Section 4.3 below
- ☐ [] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be Five hundred nine thousand, five hundred twenty-five dollars (\$ 509,525), subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

Bid Alternate 1: Ninety-two thousand, one hundred sixty dollars (\$92,160)

Bid Alternate 2: Fifty-two thousand, five hundred forty dollars (\$52,540)

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

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

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

(Identify allowance and state exclusions, if any, from the allowance price.)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

Init.

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

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

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

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

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

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

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

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

(Paragraphs deleted)

§ 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232-2009, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and
- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

Final payment will be made after receipt, review, and approval of all close-out submittals.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232-2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232-2009, the method of binding dispute resolution shall be as follows:

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

- ☐ Arbitration pursuant to Section 15.4 of AIA Document A232-2009.
- ☒ Litigation in a court of competent jurisdiction.
- ☐ Other: (Specify)

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232-2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, 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.

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232-2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232-2009 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232-2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232-2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Legal Rate %

§ 8.3 The Owner's representative:
(Name, address and other information)

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

§ 8.4 The Contractor's representative:
(Name, address and other information)

F L Crane & Sons, Inc.
508 Spring Street
Fulton, MS 38843
Telephone Number: (662) 862-2172

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

Init.

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A132–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition.

§ 9.1.2 The General Conditions are AIA Document A232–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
AIA Document A232	General Conditions of the Contract for Construction, Construction Manager as Adviser	2009 Edition	
Section 007313	Supplementary Conditions	June 2019	24

§ 9.1.4 The Specifications: See attached Exhibit A
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages
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§ 9.1.5 The Drawings: See attached Exhibit B
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
--------	-------	------

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
Addendum No. 1	July 26, 2019	47
Addendum No. 2	August 6, 2019	107
Addendum No. 3	August 12, 2019	83
Addendum No. 4	August 12, 2019	17

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

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

- .1 AIA Document A132™–2009, Exhibit A, Determination of the Cost of the Work, if applicable.
- .2 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:
- .3 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- .4 Other documents, if any, listed below:
(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232–2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents)

Init.

unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232–2009.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232–2009.)

(Table deleted)

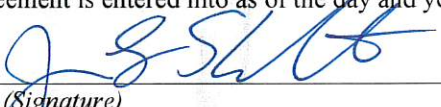
Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

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


OWNER (Signature)

Jason Shelton, Mayor

(Printed name and title)


CONTRACTOR (Signature)

JOEY HARGETT DIV VICE PRESIDENT
(Printed name and title)

Additions and Deletions Report for

AIA® Document A132™ – 2009

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:20:00 ET on 10/03/2019.

PAGE 1

AGREEMENT made as of the 1st day of October in the year 2019

...

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

...

F L Crane & Sons, Inc.
508 Spring Street
Fulton, MS 38843
Telephone Number: (662) 862-2172

...

Bid Package I: Flooring (Bid #2019-025CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

...

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

...

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

PAGE 2

The commencement shall be fixed in a separate Notice to Proceed.

PAGE 3

Bid Package I: Flooring

Substantial Completion and Milestone dates as indicated in
Specification Section 011000 "Summary of Work."

...

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time
milestone date is reached.

...

[X] Stipulated Sum, in accordance with Section 4.2 below

...

§ 4.2.1 The Stipulated Sum shall be Five hundred nine thousand, five hundred twenty-five dollars (\$ 509,525),
subject to additions and deletions as provided in the Contract Documents.

...

Bid Alternate 1: Ninety-two thousand, one hundred sixty dollars (\$92,160)

Bid Alternate 2: Fifty-two thousand, five hundred forty dollars (\$52,540)

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

...

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project
Manual.

...

Item	Allowance
------	-----------

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price

~~§ 4.3.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus
the Contractor's Fee.~~

~~§ 4.3.2 The Contractor's Fee:~~

~~(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)~~

~~§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed —percent (—%) of the standard rate paid at the
place of the Project.~~

§ 4.3.6 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed percent (%) of the standard rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.4.7 Guaranteed Maximum Price

§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed (\$), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner. *(Insert specific provisions if the Contractor is to participate in any savings.)*

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
------	-----------

§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

PAGE 4

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

...

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;

...

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and

PAGE 5

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price

§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit A, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.

§ 5.1.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take the Cost of the Work as described in Exhibit A, Determination of the Cost of the Work;
- .2 Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work described in that Section at the rate stated in that Section; or if the Contractor's Fee is stated as a fixed sum, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;
- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Article 5 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™ 2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor 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.

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

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor 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 cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

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

§ 5.1.6.3 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 Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual 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.

§ 5.1.6.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 — Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.10 of AIA Document A232 - 2009;
- .2 — Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 — Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 — Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;
- .5 — Subtract the aggregate of previous payments made by the Owner;
- .6 — Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.7— Subtract amounts, if any, for which the Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232-2009.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager or Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor 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.

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

...

Final payment will be made after receipt, review, and approval of all close-out submittals.

...

[☒] Litigation in a court of competent jurisdiction.

PAGE 6

Legal Rate %

...

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

...

F L Crane & Sons, Inc.
508 Spring Street
Fulton, MS 38843
Telephone Number: (662) 862-2172

PAGE 7

AIA Document A232

General Conditions of the Contract for
Construction, Construction Manager as Adviser
Supplementary Conditions

2009 Edition

Section 007313

June 2019

24

§ 9.1.4 The Specifications: See attached Exhibit A

...

§ 9.1.5 The Drawings: See attached Exhibit B

...

<u>Addendum No. 1</u>	<u>July 26, 2019</u>	<u>47</u>
<u>Addendum No. 2</u>	<u>August 6, 2019</u>	<u>107</u>
<u>Addendum No. 3</u>	<u>August 12, 2019</u>	<u>83</u>
<u>Addendum No. 4</u>	<u>August 12, 2019</u>	<u>17</u>

...

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

PAGE 8

Type of Insurance or Bond

Limit of Liability or Bond Amount (\$0.00)

Per Specification Section 006000 – Contract Bonds

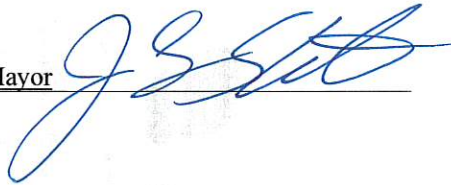
Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

...

Jason Shelton, Mayor





AGENDA REQUEST

TO: Mayor and City Council

FROM: Todd Hunt, Executive Director, BancorpSouth Arena & Conference Center

DATE March 4, 2020

SUBJECT: CONSTRUCTION CONTRACT APPROVALS

Request:

Approve contracts for our expansion project (bids were awarded on October 1, 2019)

Attachments:

A. 12 separate contracts:

- a. DC Services (Site Improvements)
- b. Shaw Services (Structural Concrete)
- c. Bush Masonry (Masonry)
- d. Harrell's Metal Works (Structural Steel)
- e. Graham Roofing (Roofing)
- f. Tull Brothers (Glass and Glazing)
- g. Acoustics and Specialties (Drywall and Paint)
- h. DC Services (General Works)
- i. FL Crane & Sons (Flooring)
- j. Fireline (Fire Protection)
- k. Kline Mechanical (Mechanical and Plumbing)
- l. Conditioned Air (Electrical)

AIA® Document A132™ – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the 1st day of October in the year 2019
(In words, indicate day, month and year.)

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

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

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

Fireline.
3905 R. C. Lane
Tupelo, MS 38801
Telephone Number: (662) 841-2595

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

Bid Package J: Fire Protection (Bid #2019-026CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

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

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

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

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser. ^AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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User Notes:

(928148562)

TABLE OF ARTICLES

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

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The commencement shall be fixed in a separate Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

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

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Init.

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User Notes:

(928148562)

Portion of the Work

Bid Package J: Fire Protection

Substantial Completion Date

Substantial Completion and Milestone dates as indicated in Specification Section 011000 "Summary of Work."

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:

(Check the appropriate box.)

- ☒ [X] Stipulated Sum, in accordance with Section 4.2 below
- ☐ [] Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance with Section 4.3 below
- ☐ [] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be One hundred four thousand, three hundred dollars (\$ 104,300), subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

Bid Alternate 1: Four thousand, eight hundred dollars (\$4,800)

Bid Alternate 2: \$0

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

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

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

(Identify allowance and state exclusions, if any, from the allowance price.)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

Init.

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User Notes:

(928148562)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

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

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

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

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

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

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

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(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

(Paragraphs deleted)

§ 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232-2009, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and
- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

Final payment will be made after receipt, review, and approval of all close-out submittals.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232-2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232-2009, the method of binding dispute resolution shall be as follows:

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

☐ Arbitration pursuant to Section 15.4 of AIA Document A232-2009.

☒ Litigation in a court of competent jurisdiction.

☐ Other: (Specify)

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232-2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, 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.

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232-2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232-2009 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232-2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232-2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Legal Rate %

§ 8.3 The Owner's representative:
(Name, address and other information)

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

§ 8.4 The Contractor's representative:
(Name, address and other information)

Rick Reddout
Fireline
3905 R. C. Lane
Tupelo, MS 38801
Telephone Number: (662) 841-2595

Init.

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

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A132-2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition.

§ 9.1.2 The General Conditions are AIA Document A232-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
AIA Document A232	General Conditions of the Contract for Construction, Construction Manager as Adviser	2009 Edition	
Section 007313	Supplementary Conditions	June 2019	24

§ 9.1.4 The Specifications: See attached Exhibit A
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages
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§ 9.1.5 The Drawings: See attached Exhibit B
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
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§ 9.1.6 The Addenda, if any:

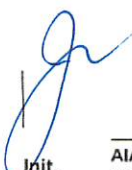
Number	Date	Pages
Addendum No. 1	July 26, 2019	47
Addendum No. 2	August 6, 2019	107
Addendum No. 3	August 12, 2019	83
Addendum No. 4	August 12, 2019	17

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

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

- .1 AIA Document A132™-2009, Exhibit A, Determination of the Cost of the Work, if applicable.
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
- .3 AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- .4 Other documents, if any, listed below:

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid,

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Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232-2009.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232-2009.)

(Table deleted)

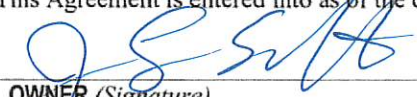
Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

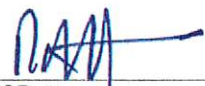
Per Specification Section 007313 – Supplementary Conditions

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


OWNER (Signature)

Jason Shelton, Mayor

(Printed name and title)


CONTRACTOR (Signature)

Rick Reddout, President

(Printed name and title)

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Additions and Deletions Report for AIA® Document A132™ – 2009

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

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PAGE 1

AGREEMENT made as of the 1st day of October in the year 2019

...

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

...

Fireline.
3905 R. C. Lane
Tupelo, MS 38801
Telephone Number: (662) 841-2595

...

Bid Package J: Fire Protection (Bid #2019-026CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

...

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

...

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

PAGE 2

The commencement shall be fixed in a separate Notice to Proceed.

PAGE 3

Bid Package J: Fire Protection

Substantial Completion and Milestone dates as indicated in

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Specification Section 011000 "Summary of Work."

...

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

...

[☒] Stipulated Sum, in accordance with Section 4.2 below

...

§ 4.2.1 The Stipulated Sum shall be One hundred four thousand, three hundred dollars (\$ 104,300), subject to additions and deletions as provided in the Contract Documents.

...

Bid Alternate 1: Four thousand, eight hundred dollars (\$4,800)

Bid Alternate 2: \$0

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

...

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

...

Item	Allowance
------	-----------

~~§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price~~

~~§ 4.3.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.~~

~~§ 4.3.2 The Contractor's Fee:~~

~~(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)~~

~~§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.3.5 Rental rates for Contractor owned equipment shall not exceed percent (— %) of the standard rate paid at the place of the Project.~~

~~§ 4.3.6 Unit prices, if any:~~

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

Item	Units and Limitations	Price per Unit (\$0.00)
§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.		

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (____%) of the standard rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
§ 4.4.7 Guaranteed Maximum Price		
§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed (\$ _____), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner. <i>(Insert specific provisions if the Contractor is to participate in any savings.)</i>		

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:	

PAGE 4

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

...

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;

...

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and

PAGE 5

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price

§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit A, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.

§ 5.1.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take the Cost of the Work as described in Exhibit A, Determination of the Cost of the Work;
- .2 Add the Contractor's Fee, less retainage of percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work described in that Section at the rate stated in that Section; or if the Contractor's Fee is stated as a fixed sum, an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract retainage of percent (— %) from that portion of the Work that the Contractor self-performs;
- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Article 5 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™ 2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor 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.

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

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor 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 cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

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

§ 5.1.6.3 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 Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual 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.

§ 5.1.6.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

1. Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.10 of AIA Document A232-2009;
2. Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
3. Add the Contractor's Fee, less retainage of _____ percent (____ %). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
4. Subtract retainage of _____ percent (____ %) from that portion of the Work that the Contractor self-performs;
5. Subtract the aggregate of previous payments made by the Owner;
6. Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

7—Subtract amounts, if any, for which the Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232-2009.

§ 5.1.6.5 The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager or Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor 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.

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

...

Final payment will be made after receipt, review, and approval of all close-out submittals.

...

[☒] Litigation in a court of competent jurisdiction.

PAGE 6

Legal Rate %

...

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

...

Rick Reddout
Fireline
3905 R. C. Lane
Tupelo, MS 38801
Telephone Number: (662) 841-2595

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AIA Document A232

Section 007313

General Conditions of the Contract for
Construction, Construction Manager as Adviser
Supplementary Conditions

2009 Edition

June 2019

24

§ 9.1.4 The Specifications: See attached Exhibit A

...

§ 9.1.5 The Drawings: See attached Exhibit B

...

<u>Addendum No. 1</u>	<u>July 26, 2019</u>	<u>47</u>
<u>Addendum No. 2</u>	<u>August 6, 2019</u>	<u>107</u>
<u>Addendum No. 3</u>	<u>August 12, 2019</u>	<u>83</u>
<u>Addendum No. 4</u>	<u>August 12, 2019</u>	<u>17</u>

...

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

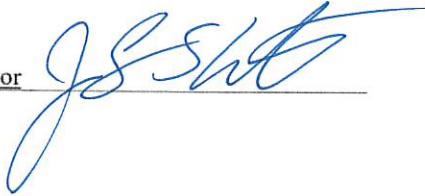
Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

PAGE 8

<u>Type of Insurance or Bond</u>	<u>Limit of Liability or Bond Amount (\$0.00)</u>
<u>Per Specification Section 006000 – Contract Bonds</u>	
<u>Per Specification Section 006500 – Certificate of Insurance</u>	
<u>Per Specification Section 007213 – General Conditions</u>	
<u>Per Specification Section 007313 – Supplementary Conditions</u>	

...

Jason Shelton, Mayor



Rick Reddout, President



Certification of Document's Authenticity

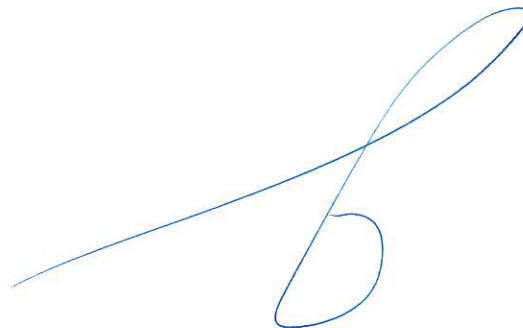
AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:19:40 ET on 10/03/2019 under Order No. 8357033061 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A132™ – 2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)





AGENDA REQUEST

TO: Mayor and City Council

FROM: Todd Hunt, Executive Director, BancorpSouth Arena & Conference Center

DATE March 4, 2020

SUBJECT: CONSTRUCTION CONTRACT APPROVALS

Request:

Approve contracts for our expansion project (bids were awarded on October 1, 2019)

Attachments:

A. 12 separate contracts:

- a. DC Services (Site Improvements)
- b. Shaw Services (Structural Concrete)
- c. Bush Masonry (Masonry)
- d. Harrell's Metal Works (Structural Steel)
- e. Graham Roofing (Roofing)
- f. Tull Brothers (Glass and Glazing)
- g. Acoustics and Specialties (Drywall and Paint)
- h. DC Services (General Works)
- i. FL Crane & Sons (Flooring)
- j. Fireline (Fire Protection)
- k. Kline Mechanical (Mechanical and Plumbing)
- l. Conditioned Air (Electrical)

AIA[®] Document A132[™] – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the 1st day of October in the year 2019
(In words, indicate day, month and year.)

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

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

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

Kline Mechanical Systems, Inc.
PO Box 121
Fulton, MS 38843
Telephone Number: (662) 862-9288

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

Bid Package K: Mechanical and Plumbing (Bid #2019-027CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

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

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

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

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A232[™]–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132[™]–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132[™]–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser. [^]AIA Document A232[™]–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

The Owner and Contractor agree as follows.

TABLE OF ARTICLES

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

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The commencement shall be fixed in a separate Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

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

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of the Work

Bid Package K: Mechanical and Plumbing

Substantial Completion Date

Substantial Completion and Milestone dates as indicated in Specification Section 011000 "Summary of Work."

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:

(Check the appropriate box.)

- ☒ [X] Stipulated Sum, in accordance with Section 4.2 below
- ☐ [] Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance with Section 4.3 below
- ☐ [] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be Two million, one hundred thirty-four thousand, five hundred ninety dollars (\$2,134,590), subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

Bid Alternate 1: Thirty-eight thousand, ninety dollars (\$38,090)

Bid Alternate 2: Seventy-two thousand, eight hundred sixty dollars (\$72,860)

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

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

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

(Identify allowance and state exclusions, if any, from the allowance price.)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

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User Notes:

(1784048459)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

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

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

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

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

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

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

Init.
TK

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

(Paragraphs deleted)

§ 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232-2009, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and
- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

Final payment will be made after receipt, review, and approval of all close-out submittals.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232-2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232-2009, the method of binding dispute resolution shall be as follows:

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

☐ Arbitration pursuant to Section 15.4 of AIA Document A232-2009.

☒ Litigation in a court of competent jurisdiction.

☐ Other: *(Specify)*

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232–2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, 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.

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232–2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232–2009 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232–2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232–2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232–2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Legal Rate %

§ 8.3 The Owner's representative:
(Name, address and other information)

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

§ 8.4 The Contractor's representative:
(Name, address and other information)

Tommy Kline
Kline Mechanical Systems, Inc.
PO Box 121
Fulton, MS 38843
Telephone Number: (662) 862-9288

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

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A132–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition.

§ 9.1.2 The General Conditions are AIA Document A232–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
AIA Document A232	General Conditions of the Contract for Construction, Construction Manager as Adviser	2009 Edition	
Section 007313	Supplementary Conditions	June 2019	24

§ 9.1.4 The Specifications: See attached Exhibit A
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages
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§ 9.1.5 The Drawings: See attached Exhibit B
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
--------	-------	------

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
Addendum No. 1	July 26, 2019	47
Addendum No. 2	August 6, 2019	107
Addendum No. 3	August 12, 2019	83
Addendum No. 4	August 12, 2019	17

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

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

- 1 AIA Document A132™–2009, Exhibit A, Determination of the Cost of the Work, if applicable.
- 2 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:
- 3 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- 4 Other documents, if any, listed below:
(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232–2009 provides that bidding requirements such as advertisement or invitation to bid,

Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232–2009.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232–2009.)

(Table deleted)

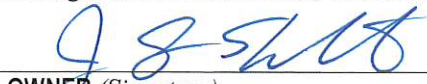
Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

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


OWNER (Signature)

Jason Shelton, Mayor
(Printed name and title)


CONTRACTOR (Signature)

Thomas Kline, COO
(Printed name and title)

Additions and Deletions Report for

AIA® Document A132™ – 2009

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:19:12 ET on 10/03/2019.

PAGE 1

AGREEMENT made as of the 1st day of October in the year 2019

...

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

...

Kline Mechanical Systems, Inc.
PO Box 121
Fulton, MS 38843
Telephone Number: (662) 862-9288

...

Bid Package K: Mechanical and Plumbing (Bid #2019-027CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

...

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

...

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

PAGE 2

The commencement shall be fixed in a separate Notice to Proceed.

PAGE 3

...

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

...

[X] Stipulated Sum, in accordance with Section 4.2 below

...

§ 4.2.1 The Stipulated Sum shall be Two million, one hundred thirty-four thousand, five hundred ninety dollars (\$2,134,590), subject to additions and deletions as provided in the Contract Documents.

...

Bid Alternate 1: Thirty-eight thousand, ninety dollars (\$38,090)

Bid Alternate 2: Seventy-two thousand, eight hundred sixty dollars (\$72,860)

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

...

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

...

Item	Allowance
------	-----------

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price

§ 4.3.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed — percent (— %) of the standard rate paid at the place of the Project.

§ 4.3.6 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed — percent (— %) of the standard rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.4.7 Guaranteed Maximum Price

§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed — (\$), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner. *(Insert specific provisions if the Contractor is to participate in any savings.)*

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
------	-----------

§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

PAGE 4

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

...

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;

...

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and

PAGE 5

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price

~~§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit A, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.~~

~~§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~§ 5.1.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

- ~~.1 Take the Cost of the Work as described in Exhibit A, Determination of the Cost of the Work;~~
- ~~.2 Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work described in that Section at the rate stated in that Section; or if the Contractor's Fee is stated as a fixed sum, an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~.3 Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;~~
- ~~.4 Subtract the aggregate of previous payments made by the Owner;~~
- ~~.5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Article 5 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~.6 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™ 2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.~~

~~§ 5.1.5.4~~ The Owner, Construction Manager and Contractor shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

~~§ 5.1.5.5~~ In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor 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.

~~§ 5.1.5.6~~ Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

~~§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price~~

~~§ 5.1.6.1~~ With each Application for Payment, the Contractor 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 cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

~~§ 5.1.6.2~~ Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Construction Manager and Architect may require. This schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

~~§ 5.1.6.3~~ 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 Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual 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.

~~§ 5.1.6.4~~ Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- ~~1~~— Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.10 of AIA Document A232-2009;
- ~~2~~— Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- ~~3~~— Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- ~~4~~— Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self performs;
- ~~5~~— Subtract the aggregate of previous payments made by the Owner;
- ~~6~~— Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

~~7~~ Subtract amounts, if any, for which the Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232-2009.

~~§ 5.1.6.5~~ The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

~~§ 5.1.6.6~~ In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager or Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor 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.

~~§ 5.1.6.7~~ Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

...

Final payment will be made after receipt, review, and approval of all close-out submittals.

...

[☒] Litigation in a court of competent jurisdiction.

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Legal Rate %

...

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

...

Tommy Kline
Kline Mechanical Systems, Inc.
PO Box 121
Fulton, MS 38843
Telephone Number: (662) 862-9288
PAGE 7

AIA Document A232

General Conditions of the Contract for
Construction, Construction Manager as Adviser
Supplementary Conditions

2009 Edition

Section 007313

June 2019

24

§ 9.1.4 The Specifications: See attached Exhibit A

...

§ 9.1.5 The Drawings: See attached Exhibit B

...

<u>Addendum No. 1</u>	<u>July 26, 2019</u>	<u>47</u>
<u>Addendum No. 2</u>	<u>August 6, 2019</u>	<u>107</u>
<u>Addendum No. 3</u>	<u>August 12, 2019</u>	<u>83</u>
<u>Addendum No. 4</u>	<u>August 12, 2019</u>	<u>17</u>

...

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

PAGE 8

Type of Insurance or Bond

Limit of Liability or Bond Amount (\$0.00)

Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

...

Jason Shelton, Mayor

Thomas Kline, COO



AGENDA REQUEST

TO: Mayor and City Council

FROM: Todd Hunt, Executive Director, BancorpSouth Arena & Conference Center

DATE March 4, 2020

SUBJECT: CONSTRUCTION CONTRACT APPROVALS

Request:

Approve contracts for our expansion project (bids were awarded on October 1, 2019)

Attachments:

A. 12 separate contracts:

- a. DC Services (Site Improvements)
- b. Shaw Services (Structural Concrete)
- c. Bush Masonry (Masonry)
- d. Harrell's Metal Works (Structural Steel)
- e. Graham Roofing (Roofing)
- f. Tull Brothers (Glass and Glazing)
- g. Acoustics and Specialties (Drywall and Paint)
- h. DC Services (General Works)
- i. FL Crane & Sons (Flooring)
- j. Fireline (Fire Protection)
- k. Kline Mechanical (Mechanical and Plumbing)
- l. Conditioned Air (Electrical)

AIA® Document A132™ – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the 1st day of October in the year 2019
(In words, indicate day, month and year.)

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

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

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

Conditioned Air, Inc.
PO Box 2055
Tupelo, MS 38803
Telephone Number: (662) 680-9090

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

Bid Package L: Electrical (Bid #2019-028CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

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

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

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

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser. ^AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

The Owner and Contractor agree as follows.

TABLE OF ARTICLES

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

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The commencement shall be fixed in a separate Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

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

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of the Work

Bid Package L: Electrical

Substantial Completion Date

Substantial Completion and Milestone dates as indicated in Specification Section 011000 "Summary of Work."

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:

(Check the appropriate box.)

- ☒ **[X]** Stipulated Sum, in accordance with Section 4.2 below
- ☐ **[]** Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance with Section 4.3 below
- ☐ **[]** Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be One million, eight hundred fifty-one thousand, five hundred eighty dollars (\$1,851,580), subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

Bid Alternate 1: Eighty-seven thousand, five hundred dollars (\$87,500)

Bid Alternate 2: Thirteen thousand, nine hundred thirty dollars (\$13,930)

Bid Alternate 4: One hundred thousand, one hundred fifty dollars (\$100,150)

§ 4.2.3 Unit prices, if any: N/A

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

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

(Identify allowance and state exclusions, if any, from the allowance price.)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

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User Notes:

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(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

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

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

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

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

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

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

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

(Paragraphs deleted)

§ 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232-2009, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and
- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

Final payment will be made after receipt, review, and approval of all close-out submittals.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232-2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232-2009, the method of binding dispute resolution shall be as follows:

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

☐ Arbitration pursuant to Section 15.4 of AIA Document A232-2009.

☒ Litigation in a court of competent jurisdiction.

☐ Other: *(Specify)*

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232-2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, 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.

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232-2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232-2009 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232-2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232-2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Legal Rate %

§ 8.3 The Owner's representative:
(Name, address and other information)

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

§ 8.4 The Contractor's representative:
(Name, address and other information)

Michael Green
Conditioned Air, Inc.
PO Box 2055
Tupelo, MS 38803
Telephone Number: (662) 680-9090

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

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A132-2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition.

§ 9.1.2 The General Conditions are AIA Document A232-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
AIA Document A232	General Conditions of the Contract for Construction, Construction Manager as Adviser	2009 Edition	
Section 007313	Supplementary Conditions	June 2019	24

§ 9.1.4 The Specifications: See attached Exhibit A
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages
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§ 9.1.5 The Drawings: See attached Exhibit B
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
--------	-------	------

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
Addendum No. 1	July 26, 2019	47
Addendum No. 2	August 6, 2019	107
Addendum No. 3	August 12, 2019	83
Addendum No. 4	August 12, 2019	17

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

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

- 1 AIA Document A132™-2009, Exhibit A, Determination of the Cost of the Work, if applicable.
- 2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
- 3 AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- 4 Other documents, if any, listed below:

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid,

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Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232–2009.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232–2009.)

(Table deleted)

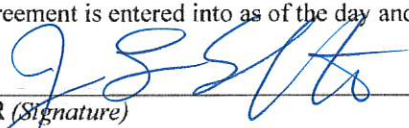
Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

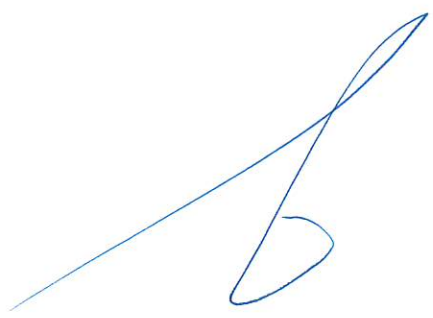
This Agreement is entered into as of the day and year first written above.


OWNER (Signature)

Jason Shelton, Mayor
(Printed name and title)


CONTRACTOR (Signature)

Michael Green, President
(Printed name and title)



Additions and Deletions Report for **AIA® Document A132™ – 2009**

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:19:05 ET on 10/03/2019.

PAGE 1

AGREEMENT made as of the 1st day of October in the year 2019

...

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

...

Conditioned Air, Inc.
PO Box 2055
Tupelo, MS 38803
Telephone Number: (662) 680-9090

...

Bid Package L: Electrical (Bid #2019-028CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

...

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

...

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

PAGE 2

The commencement shall be fixed in a separate Notice to Proceed.

PAGE 3

Bid Package L: Electrical

Substantial Completion and Milestone dates as indicated in

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User Notes:

(1212500844)

Specification Section 011000 "Summary of Work."

...

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

...

[X] Stipulated Sum, in accordance with Section 4.2 below

...

§ 4.2.1 The Stipulated Sum shall be One million, eight hundred fifty-one thousand, five hundred eighty dollars (\$1,851,580), subject to additions and deletions as provided in the Contract Documents.

...

Bid Alternate 1: Eighty-seven thousand, five hundred dollars (\$87,500)

Bid Alternate 2: Thirteen thousand, nine hundred thirty dollars (\$13,930)

Bid Alternate 4: One hundred thousand, one hundred fifty dollars (\$100,150)

§ 4.2.3 Unit prices, if any: N/A

...

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

...

Item	Allowance
------	-----------

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price

~~§ 4.3.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.~~

~~§ 4.3.2 The Contractor's Fee:~~

~~(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)~~

~~§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (____ %) of the standard rate paid at the place of the Project.~~

~~§ 4.3.6 Unit prices, if any:~~

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (____%) of the standard rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.4.7 Guaranteed Maximum Price

§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed (\$ _____), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner. *(Insert specific provisions if the Contractor is to participate in any savings.)*

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
------	-----------

§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

PAGE 4

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

...

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;

...

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and

PAGE 5

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price

~~§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit A, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor, less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.~~

~~§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~§ 5.1.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

- ~~.1 Take the Cost of the Work as described in Exhibit A, Determination of the Cost of the Work;~~
- ~~.2 Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work described in that Section at the rate stated in that Section; or if the Contractor's Fee is stated as a fixed sum, an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~.3 Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;~~
- ~~.4 Subtract the aggregate of previous payments made by the Owner;~~
- ~~.5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Article 5 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~.6 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™ 2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.~~

§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor 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.

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

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor 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 cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

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

§ 5.1.6.3 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 Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual 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.

§ 5.1.6.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

1. Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.10 of AIA Document A232-2009;
2. Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
3. Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
4. Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self performs;
5. Subtract the aggregate of previous payments made by the Owner;
6. Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

~~7 Subtract amounts, if any, for which the Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232-2009.~~

~~§ 5.1.6.5 The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with these agreements.~~

~~§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager or Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor 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.~~

~~§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.~~

...

Final payment will be made after receipt, review, and approval of all close-out submittals.

...

[☒] Litigation in a court of competent jurisdiction.

PAGE 6

Legal Rate %

...

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

...

Michael Green
Conditioned Air, Inc.
PO Box 2055
Tupelo, MS 38803
Telephone Number: (662) 680-9090

PAGE 7

AIA Document A232

General Conditions of the Contract for
Construction, Construction Manager as Adviser
Supplementary Conditions

2009 Edition

Section 007313

June 2019

24

§ 9.1.4 The Specifications: See attached Exhibit A

...

§ 9.1.5 The Drawings: See attached Exhibit B

...

<u>Addendum No. 1</u>	<u>July 26, 2019</u>	<u>47</u>
<u>Addendum No. 2</u>	<u>August 6, 2019</u>	<u>107</u>
<u>Addendum No. 3</u>	<u>August 12, 2019</u>	<u>83</u>
<u>Addendum No. 4</u>	<u>August 12, 2019</u>	<u>17</u>

...

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

PAGE 8

Type of Insurance or Bond

Limit of Liability or Bond Amount (\$0.00)

Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

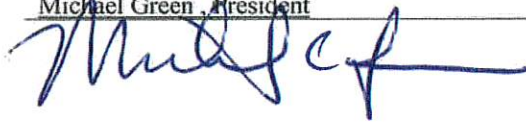
Per Specification Section 007313 – Supplementary Conditions

...

Jason Shelton, Mayor



Michael Green, President





AGENDA REQUEST

TO: Mayor and City Council

FROM: Todd Hunt, Executive Director, BancorpSouth Arena & Conference Center

DATE March 4, 2020

SUBJECT: CONSTRUCTION CONTRACT APPROVALS

Request:

Approve contracts for our expansion project (bids were awarded on October 1, 2019)

Attachments:

A. 12 separate contracts:

- a. DC Services (Site Improvements)
- b. Shaw Services (Structural Concrete)
- c. Bush Masonry (Masonry)
- d. Harrell's Metal Works (Structural Steel)
- e. Graham Roofing (Roofing)
- f. Tull Brothers (Glass and Glazing)
- g. Acoustics and Specialties (Drywall and Paint)
- h. DC Services (General Works)
- i. FL Crane & Sons (Flooring)
- j. Fireline (Fire Protection)
- k. Kline Mechanical (Mechanical and Plumbing)
- l. Conditioned Air (Electrical)



AIA[®] Document A132[™] – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the 1st day of October in the year 2019
(In words, indicate day, month and year.)

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

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

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

Acoustics & Specialties, LLC
3929 Senator St.
Memphis, TN 38118
Telephone Number: (901) 365-8450

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

Bid Package G: Drywall and Paint Rebid (Bid #2019-040CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

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

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

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

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A232[™]–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132[™]–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132[™]–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser. ^AIA Document A232[™]–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

TABLE OF ARTICLES

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

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

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

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The commencement shall be fixed in a separate Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

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

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of the Work

Bid Package G: Drywall and Paint Rebid

Substantial Completion Date

Substantial Completion and Milestone dates as indicated in Specification Section 011000 "Summary of Work."

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time milestone date is reached.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:

(Check the appropriate box.)

☒ **[X]** Stipulated Sum, in accordance with Section 4.2 below

☐ **[]** Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance with Section 4.3 below

☐ **[]** Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete either Section 5.1.4, 5.1.5 or 5.1.6 below.)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be One million, eight hundred fifteen thousand, two hundred dollars (\$ 1,815,200), subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

Bid Alternate 1: Eighty-nine thousand, nine hundred dollars (\$89,900)

Bid Alternate 2: Twelve thousand, three hundred dollars (\$12,300)

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

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

(Row deleted)

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project Manual.

(Identify allowance and state exclusions, if any, from the allowance price.)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

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

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

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

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

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

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

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

(Paragraphs deleted)

§ 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232-2009, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and
- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

Final payment will be made after receipt, review, and approval of all close-out submittals.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232-2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232-2009, the method of binding dispute resolution shall be as follows:

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

☐ Arbitration pursuant to Section 15.4 of AIA Document A232-2009.

☒ Litigation in a court of competent jurisdiction.

☐ Other: *(Specify)*

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009.

§ 7.2 Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price

§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232-2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, 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.

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232-2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232-2009 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232-2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232-2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

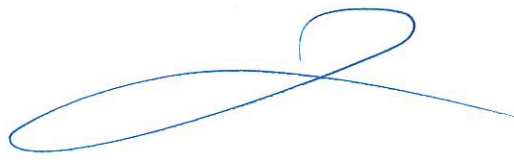
Legal Rate %

§ 8.3 The Owner's representative:
(Name, address and other information)

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

§ 8.4 The Contractor's representative:
(Name, address and other information)

William Roark
Acoustics & Specialties, LLC
3929 Senator St.
Memphis, TN 38118
Telephone Number: (901) 365-8450



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

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A132–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition.

§ 9.1.2 The General Conditions are AIA Document A232–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
AIA Document A232	General Conditions of the Contract for Construction, Construction Manager as Adviser	2009 Edition	
Section 007313	Supplementary Conditions	June 2019	24

§ 9.1.4 The Specifications: See attached Exhibit A
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

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

§ 9.1.5 The Drawings: See attached Exhibit B
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
--------	-------	------

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
Addendum No. 1	July 26, 2019	47
Addendum No. 2	August 6, 2019	107
Addendum No. 3	August 12, 2019	83
Addendum No. 4	August 12, 2019	17
Addendum No. 5	September 12, 2019	11

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

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

- .1 AIA Document A132™–2009, Exhibit A, Determination of the Cost of the Work, if applicable.
- .2 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:
- .3 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
- .4 Other documents, if any, listed below:

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232-2009.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232-2009.)

(Table deleted)

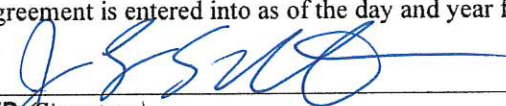
Per Specification Section 006000 – Contract Bonds

Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

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


OWNER (Signature)

Jason Shelton, Mayor
(Printed name and title)


CONTRACTOR (Signature)

William Roark, President
(Printed name and title)

Additions and Deletions Report for AIA® Document A132™ – 2009

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:20:40 ET on 10/03/2019.

PAGE 1

AGREEMENT made as of the 1st day of October in the year 2019

...

City of Tupelo
71 East Troy Street
Tupelo, MS 38804
Telephone: (662) 952-6513

...

Acoustics & Specialties, LLC
3929 Senator St.
Memphis, TN 38118
Telephone Number: (901) 365-8450

...

Bid Package G: Drywall and Paint Rebid (Bid #2019-040CO)
Bancorpsouth Arena and Conference Center Expansion and Renovation
Tupelo, Mississippi
Architect's Project Number: 2018025

...

Innovative Construction Management (ICM)
PO Box 1515
Oxford, MS 38655
Telephone Number: 662-550-3051

...

McCarty Architects Professional Association
533 West Main St.
Tupelo, MS 38804
Telephone Number: 662-844-4400

PAGE 2

The commencement shall be fixed in a separate Notice to Proceed.

PAGE 3

Bid Package G: Drywall and Paint Rebid

Substantial Completion and Milestone dates as indicated in
Specification Section 011000 "Summary of Work."

...

Liquidated damages in the amount of \$750 for each day of delay exceeding the milestone dates until such time
milestone date is reached.

...

[X] Stipulated Sum, in accordance with Section 4.2 below

...

§ 4.2.1 The Stipulated Sum shall be One million, eight hundred fifteen thousand, two hundred dollars (\$ 1,815,200),
subject to additions and deletions as provided in the Contract Documents.

...

Bid Alternate 1: Eighty-nine thousand, nine hundred dollars (\$89,900)

Bid Alternate 2: Twelve thousand, three hundred dollars (\$12,300)

Bid Alternate 4: \$0

§ 4.2.3 Unit prices, if any: N/A

...

Item

Units and Limitations

Price per Unit (\$0.00)

§ 4.2.4 Allowances included in the Stipulated Sum, if any: Refer to Section 012100 "Allowances" in the Project
Manual.

...

Item

Allowance

§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price

§ 4.3.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus
the Contractor's Fee.

§ 4.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed percent (%) of the standard rate paid at the
place of the Project.

§ 4.3.6 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.

§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price

§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.

§ 4.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:

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

§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed percent (%) of the standard rate paid at the place of the Project.

§ 4.4.6 Unit Prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 4.4.7 Guaranteed Maximum Price

§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed (\$), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner. (Insert specific provisions if the Contractor is to participate in any savings.)

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
------	-----------

§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

PAGE 4

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

...

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;

...

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100 %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and

PAGE 5

Refer to Section 007313 Supplementary Conditions (9.3.1.3)

§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price

~~§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit A, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.~~

~~§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~§ 5.1.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

- ~~.1 Take the Cost of the Work as described in Exhibit A, Determination of the Cost of the Work;~~
- ~~.2 Add the Contractor's Fee, less retainage of percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work described in that Section at the rate stated in that Section; or if the Contractor's Fee is stated as a fixed sum, an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~.3 Subtract retainage of percent (— %) from that portion of the Work that the Contractor self-performs;~~
- ~~.4 Subtract the aggregate of previous payments made by the Owner;~~
- ~~.5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Article 5 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~.6 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™—2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.~~

§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor 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.

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

§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price

§ 5.1.6.1 With each Application for Payment, the Contractor 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 cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

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

§ 5.1.6.3 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 Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual 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.

§ 5.1.6.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- 1—Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.10 of AIA Document A232-2009;
- 2—Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- 3—Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- 4—Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;
- 5—Subtract the aggregate of previous payments made by the Owner;
- 6—Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

~~7~~ Subtract amounts, if any, for which the Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232-2009.

~~§ 5.1.6.5~~ The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

~~§ 5.1.6.6~~ In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager or Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor 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.

~~§ 5.1.6.7~~ Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

...

Final payment will be made after receipt, review, and approval of all close-out submittals.

...

[☒] Litigation in a court of competent jurisdiction.

PAGE 6

Legal Rate %

...

Todd Hunt
BancorpSouth Arena & Conference Center
P. O. Box 7288
Tupelo, MS 38802
Telephone Number: (662) 841-6573

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William Roark
Acoustics & Specialties, LLC
3929 Senator St.
Memphis, TN 38118
Telephone Number: (901) 365-8450

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AIA Document A232

General Conditions of the Contract for
Construction, Construction Manager as Adviser
Supplementary Conditions

2009 Edition

Section 007313

June 2019

24

~~§ 9.1.4~~ The Specifications: See attached Exhibit A

...

§ 9.1.5 The Drawings: See attached Exhibit B

...

<u>Addendum No. 1</u>	<u>July 26, 2019</u>	<u>47</u>
<u>Addendum No. 2</u>	<u>August 6, 2019</u>	<u>107</u>
<u>Addendum No. 3</u>	<u>August 12, 2019</u>	<u>83</u>
<u>Addendum No. 4</u>	<u>August 12, 2019</u>	<u>17</u>
<u>Addendum No. 5</u>	<u>September 12, 2019</u>	<u>11</u>

PAGE 8

(List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Index of Specifications

Exhibit B – Index of Drawings

Exhibit C –Mandatory Addendum to All City of Tupelo Contracts (June 2015)

...

Type of Insurance or Bond

Limit of Liability or Bond Amount (\$0.00)

Per Specification Section 006000 – Contract Bonds

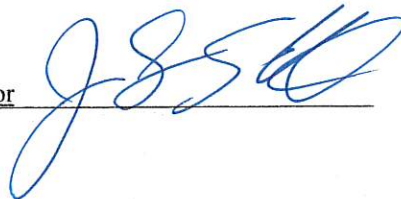
Per Specification Section 006500 – Certificate of Insurance

Per Specification Section 007213 – General Conditions

Per Specification Section 007313 – Supplementary Conditions

...

Jason Shelton, Mayor



William Roark, President



A handwritten signature in blue ink, featuring a large loop and a long horizontal stroke extending to the right.



AGENDA REQUEST

TO: Mayor and City Council

FROM: Johnny Timmons, Tupelo Water & Light Department Manager

DATE March 11, 2020

SUBJECT: EMERGENY PURCHASE REQUEST

Request:

I respectfully request your approval of an emergency purchase for Central Pumping Station of the following:

- Rental of two (2) 12” by-pass pumps from Xylem Rental Company
- New electronics including switch boxes and controls
- Rework/rewind four (4) 10” pumps

This emergency purchase is necessary due to a line plug that blew off of the manifold head on Sunday, March 8, 2020. This knocked out the breaker to the sump pumps and allowed the wet well to fill up with sewage. All the electrical equipment and pumps were submerged in water and ruined and must be replaced.



AGENDA REQUEST

TO: Mayor and City Council

FROM: Johnny Timmons, Tupelo Water & Light Department Manager

DATE 03/12/2020

SUBJECT: SOLE SOURCE PROCUREMENT

Request:

At your regular meeting on December 3, 2019, the city council approved the award of a sole source procurement of our new AMI water meters and accessories to McNeil Rhoads. We have been informed that McNeil Rhoads is no longer a distributor of Mueller water meters and we will be purchasing directly from Mueller Systems. Therefore, we ask that this Sole Source Procurement be awarded to Mueller Systems and remain in place as long as we have the Muller Mi-Net AMI System.

Attachments:

- A. Letter from Mueller Systems



Mueller Systems
10210 Statesville Boulevard
Cleveland, NC 27013

office: 704-278-2221
toll free: 800-323-8584

March 11, 2020

City of Tupelo, Mississippi
PO Box 588
Tupelo, MS 38802

Subject: Sole Source Manufacturer

To Whom It May Concern,

Mueller Systems, LLC is a leading innovator and provider of Advanced Metering Infrastructure (AMI), Automated Meter Reading (AMR), and water meters. Mueller Systems, originally founded in 1859, manufactures our products at our ISO certified facility in Cleveland, North Carolina. We are a wholly owned subsidiary of Mueller Water Products and, along with our sister companies, we are one of the largest manufacturers of smart water distribution products in the world. Mueller Systems has the distinction of sole source manufacturer of Mueller Systems' products, which include water meters, data acquisition components, systems integration, software, analytics, and other smart water applications and capabilities.

Should you have any questions, please do not hesitate to contact your Mueller Systems Territory Manager, Jerry Johnson, at jerryjohnson@muellerwp.com or 704-903-2250. We appreciate the opportunity to be of service to you.

Sincerely,

K. Anita Short
Proposal Manager

CC: File
Jerry Johnson



AGENDA REQUEST

TO: Mayor and City Council
FROM: Renee Newton, MTP Secretary
DATE February 14, 2020
SUBJECT: MAJOR THOROUGHFARE MINUTES 1/13/2020

Request:

Please add to next Council Agenda

Attachments:

A.



Tupelo Major Thoroughfare Program Minutes January 13, 2019

Members present: Bill Cleveland, Scott Davis, Chris Hussey, C W Jackson, Stuart Johnson, Ernie Joyner, Charlotte Loden, Jon Milstead, Aletha Mims, Ian Morrison, Mike Pettigrew, Greg Pirkle, Danny Riley, Ted Roach, and Drew Robertson

Members not present: Jamie Osbirn, Brent Waldrop, and Wesley Webb

Others present: Dennis Bonds, Kim Hanna, Don Lewis, Renee Newton, Johnny Timmons, John White, Chuck Williams, and Taylor Vance

Chairman Pirkle called meeting to order.

Chairman Pirkle asked the Committee to review and approve the minutes of the December 9, 2019, Major Thoroughfare Program regular meeting. Motion made by Bill Cleveland to accept minutes. C W Jackson seconded motion. Minutes approved unanimously by Committee.

Kim Hanna reviewed the Major Thoroughfare Phase VI Budget Report for the month ending December 31, 2019. Beginning cash balance was \$6,030,739. Revenue from Property Tax and Interest Earned was \$87,038. Expenditures were \$419,186. Payments included \$7,677 for Personnel Costs; \$310,055 to Jackson St (Clayton to Robins); and \$36,704 to Miscellaneous projects. Ending cash balance was \$5,698,592.

Renee Newton took roll.

Chairman Pirkle welcomed Jon Milstead to the Committee. C W Jackson and Ernie Joyner were reappointed to the Committee. Chairman Pirkle thanked them for their dedication.

Dennis Bonds gave updates on the current projects.

EAST MAIN STREET (GREEN STREET TO VETERANS)

Full and final settlement letter has been received from MDOT accepting the project. MDOT will be issuing final payment in the amount of \$44,496.74 to the City of Tupelo. Greg Pirkle asked for a moment of silence in honor of the receipt of the final MDOT letter. The first letter was sent in 2014.

JACKSON STREET (CLAYTON TO MADISON)

Working on coordination with the utility relocation project and meeting with property owners to obtain construction easements. Additional right of way has been obtained to allow for right turn lane to north onto Gloster Street.

LUMPKIN INTERSECTION RELOCATE

Project is complete. All signal equipment has been installed. Final inspection should be held this week to make sure everything is acceptable for final close out.

EASON BLVD (S VETERANS TO BRIAR RIDGE)

Currently continuing to work on plans design. Amount of additional right-of-way required will not be available until design is complete.

W JACKSON ST (AIRPARK TO COLEY)

Currently continuing to work on plans design. Amount of additional right-of-way required will not be available until design is complete.

MDOT NORTH GLOSTER / BARNES CROSSING PROJECT

Work has stopped for the winter.

INACTIVE PROJECTS (PHASE VI)

N Gloster St - Barnes Crossing to Natchez Trace

New Business

Purchase of property at E Jackson and N Gloster needed for dedicated right turn lane

Agreement was reached with the property owners on E Jackson St for purchase of right-of-way required to construct a dedicated right turn lane onto N Gloster St from E Jackson St. Purchase agreement was \$45,000. Motion for Major Thoroughfare Program to pay \$45,000 for right-of-way property made by Stuart Johnson. Motion was seconded by Ernie Joyner. Motion passed unanimously.

With no further business to discuss, the meeting was adjourned.


Chairman Greg Pirkle


Submitted by Renee Newton



AGENDA REQUEST

TO: Mayor and City Council
FROM: Pat Falkner, Director Development Services
DATE February 28, 2020
SUBJECT: PUBLIC AGENDA: DEMOLITION

Request:

Public Hearings regarding proposed demolition of three properties: 107 Lakeview, 115 Warren Lane, and 931 South Gloster. Action on these properties will be deferred to March 17.

Attachments:

- A. Review sheets for each property

Demolition List for 3/3/20 City Council Meeting

107 LAKEVIEW DR.

115 WARREN LN.

931 S. GLOSTER DR. (TOWNHOUSE MOTEL)

107 Lakeview Dr.

BASIC INFORMATION

- ▶ PARCEL: 077P-35-067-00
- ▶ CASE : 29948
- ▶ WARD: 2
- ▶ TAX VALUE: \$46,640
- ▶ VACANT: YES
- ▶ REPAIRABLE: POSSIBLY

NEARBY PROPERTIES/ TAXES

- | | |
|---------------|---|
| ▶ RIGHT SIDE | 109 Lakeview Dr. - \$60,810 |
| ▶ LEFT SIDE | 201 Lakeview Dr. - \$50,490 |
| ▶ REAR | 2238 Woods St. - \$82,240 |
| ▶ ACROSS | 2113 Glendale St. - \$71,980 |
| ▶ TAXES/LIENS | 3 years delinquent on taxes
1 city lien for lot mowing |

107 Lakeview Dr.

VISUAL INDICATORS OF BLIGHT

- ▶ STRUCTURAL DAMAGE OR FAILURE-NO
- ▶ EXTERIOR MATERIALS IN NEED OF REPLACEMENT OR REPAIR – YES
- ▶ BROKEN WINDOWS\DAMAGED DOORS – YES
- ▶ YARD OR GROUNDS POORLY MAINTAINED – YES
- ▶ ACCUMULATION OF JUNK – NO
- ▶ CODE ENFORCEMENT HISTORY
- ▶ 17 VIOLATIONS SINCE 2009
- ▶ CURRENT STATUS – OPEN- CHAP 34

CODE ENFORCEMENT HISTORY

- ▶ 17 VIOLATIONS SINCE 2009
- ▶ CURRENT STATUS – OPEN- CHAP 34
- ▶ INVESTOR OWNED – OUT OF TOWN









115 Warren Ln.

BASIC INFORMATION

- ▶ PARCEL: 089P-31-072-00
- ▶ CASE : 29847
- ▶ WARD: 6
- ▶ TAX VALUE: \$41,690
- ▶ VACANT: YES
- ▶ REPAIRABLE: NO

VISUAL INDICATORS OF BLIGHT

- ▶ STRUCTURAL DAMAGE OR FAILURE-YES
- ▶ EXTERIOR MATERIALS IN NEED OF REPLACEMENT OR REPAIR – YES
- ▶ BROKEN WINDOWS\DAMAGED DOORS – YES
- ▶ YARD OR GROUNDS POORLY MAINTAINED – NO
- ▶ ACCUMULATION OF JUNK - NO

CODE ENFORCEMENT HISTORY

- ▶ 5 VIOLATIONS DATING BACK TO 2015
- ▶ CURRENT STATUS – OPEN- CHAP 34

& NONCONFORMING USE (MOBILE HOUSE HAS BEEN VACANT FOR MORE THAN 3 MONTHS AND MUST BE REMOVED FROM THE CITY)



931 S. Gloster St.

Townhouse Motel

BASIC INFORMATION

- ▶ PARCEL: 113E-06-141-01
- ▶ CASE : 23465
- ▶ WARD: 3
- ▶ TAX VALUE: \$627,490
- ▶ VACANT: PARTIALLY
- ▶ REPAIRABLE: POSSIBLY

VISUAL INDICATORS OF BLIGHT

- ▶ STRUCTURAL DAMAGE OR FAILURE-YES
- ▶ EXTERIOR MATERIALS IN NEED OF REPLACEMENT OR REPAIR – YES
- ▶ BROKEN WINDOWS\DAMAGED DOORS – YES
- ▶ YARD OR GROUNDS POORLY MAINTAINED – NO
- ▶ ACCUMULATION OF JUNK - NO

CODE ENFORCEMENT HISTORY

- ▶ CURRENT STATUS – OPEN- CHAP 34 VIOLATION – BURN OUT







AGENDA REQUEST

TO: Mayor and City Council
FROM: Ben M. Logan, City Attorney
DATE March 12, 2020
SUBJECT: AGENDA ITEM

Request:

IN THE MATTER OF RESOLUTION OF SUPPORT FOR THRASH GROVE, LLC
APPLICATION TO MISSISSIPPI DEVELOPMENT AUTHORITY TOURISM TAX REBATE
PROGRAM

Attachments:

To be forwarded

RESOLUTION OF THE MAYOR AND CITY COUNCIL ("GOVERNING BODY") OF THE CITY OF TUPELO ("CITY"), SUPPORTING THRASH GROUP, LLC (THE "DEVELOPER"), A FULL SERVICE HOTEL DEVELOPMENT PROJECT WITH GUEST AMENITIES (THE "PROJECT"), AND ACKNOWLEDGING THAT SALES TAX COLLECTED FROM THE PROJECT WILL BE DIVERTED TO THE SALES TAX REBATE FUND (THE "REBATE FUND") FOR A PERIOD OF UP TO FIFTEEN (15) YEARS, OR WHEN THE AGGREGATE AMOUNT OF THIRTY PERCENT (30%) OF THE APPROVED PROJECT COSTS BY THE MISSISSIPPI DEVELOPMENT AUTHORITY ("MDA") INCURRED BY DEVELOPER FOR THE PROJECT HAS BEEN PAID OR WHICHEVER SHALL OCCUR FIRST, PURSUANT TO SECTION 57-26-1 *ET SEQ.* MISSISSIPPI CODE OF 1972, AS AMENDED; AND FOR RELATED PURPOSES.

WHEREAS, the Mayor and City Council (the "Governing Body") of the City of Tupelo, Mississippi (the "City"), acting for and on behalf of the City, hereby finds and determines as follows:

1. The Governing Body has determined that pursuant to the provisions of the Mississippi Tourism Project Incentive Program Act, as set forth in Section 57-26-1, *et seq.*, Mississippi Code of 1972, as amended (the "Tourism Act") and the Mississippi Development Authority's (the "MDA") Tourism Tax Rebate Program Guidelines (the "Tourism Guidelines") (the "Tourism Act" and "Tourism Guidelines" together the Tourism Program), Thrash Group, LLC, a Mississippi limited liability company, by and through its members, (the "Developer") proposes to develop a full service hotel development project and restaurant (the "Tourism Project") within the City and in connection therewith will make application to the MDA for the benefits provided by the Tourism Program.
2. The Governing Body acknowledges, pursuant to the Tourism Program, that Eighty Percent (80%) of the sales tax collected from the Tourism Project will be diverted to the Mississippi Tourism Sales Tax Rebate Fund (the "Rebate Fund") for a period of up to fifteen (15) years or when the aggregate amount of Thirty Percent (30%) of certain approved costs by the MDA incurred by the Developer for the Tourism Project has been paid or whichever shall occur first.
3. The Governing Body acknowledges that the Tourism Project is recommended by the Fairpark Urban Renewal Master Plan, (the "Master Plan") whose goal is to create a walkable, workable, livable mixed-used community that connects people to living, shopping, dining, entertainment, educational, medical, cultural, and recreational venues
4. The Governing Body acknowledges the Master Plan received extensive support from the City, and the community residents and businesses of the City and Lee County and TRA.
5. The Governing Body acknowledges that one of the key initiatives and recommendations of the Master Plan is to attract a boutique hotel with supporting amenities and retail services catering to the Fairpark Urban Renewal Area.

6. The Governing Body acknowledges that the Tourism Project is projected to have a significant capital investment sufficient to meet the requirements of the Tourism Program and will provide a significant impact to and upon the economy of the City, Lee County, the Fairpark Urban Renewal Area and surrounding region.

7. The City is in full support of the Tourism Project and supports the application by Developer to MDA for the benefits allowed pursuant to the Tourism Program.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY, ACTING FOR AND ON BEHALF OF THE CITY, AS FOLLOWS:

SECTION 1. That all the findings of fact made and set forth in the preamble of this Resolution shall be in the same and are hereby declared and adjudicated to be true and correct.

SECTION 2. That the City fully supports the Tourism Project and the application of the Thrash Group, LLC, to the MDA for the benefits allowed pursuant to the Tourism Program and acknowledges and agrees that Eighty Percent (80%) of the sales tax collected from the Tourism Project, which shall have a significant capital investment sufficient to meet the requirements of the Tourism Program, will be diverted to the Rebate Fund for a period of up to fifteen (15) years, or when the aggregate amount of Thirty Percent (30%) of the approved MDA Tourism Project Costs incurred by Developer for the Tourism Project has been paid or whichever shall occur first.

SECTION 3. That the City shall commit to its obligations under this Resolution provided that the Developer is in compliance with the applicable MDA regulations, schedules, timelines and guidelines governing the duties and obligations of TRA.

SECTION 4. That the Mayor of the City is authorized to execute any and all necessary documents and clarifications required or requested by MDA for the qualification of the Tourism Program.

After a full discussion of this matter, Council Member _____ moved that the foregoing Resolution be adopted and said motion was seconded by Council Member _____ and upon the question being put to a vote, the results were as follows:

Councilmember Whittington voted _____
Councilmember L. Bryan voted _____
Councilmember Beard voted _____
Councilmember Davis voted _____
Councilmember Palmer voted _____
Councilmember M. Bryan voted _____
Councilmember Jennings voted _____

The motion having received the affirmative vote of a majority of the members present, the President declared the motion carried and the resolution adopted.

WHEREUPON, the foregoing Resolution was declared, passed and adopted at a regular meeting of the Council on this the _____ day of _____, 2020.

CITY OF TUPELO, MISSISSIPPI

NETTIE Y. DAVIS, City Council President

ATTEST:

MISSY SHELTON, Clerk of the Council

APPROVED:

JASON L. SHELTON, Mayor

DATE



AGENDA REQUEST

TO: MAYOR AND CITY COUNCIL
FROM: BEN M. LOGAN, CITY ATTORNEY
DATE MARCH 10, 2020
SUBJECT: AGENDA ITEMS

Request:

ROUTINE AGENDA

REVIEW/ACCEPT ARCHITECTURAL CONTRACT WITH PRYOR MORROW FOR THE BUILDING OF FIRE STATION 2

REVIEW/ACCEPT ARCHITECTURAL CONTRACT WITH ARCHITECTURE SOUTH FOR THE REMOVAL AND REBUILDING OF THE BEL-AIRE CENTER

REVIEW/ACCEPT FIVE YEAR RENTAL CONTRACT WITH RJ YOUNG FOR COPY MACHINE LOCATED IN ADMINISTRATION

EXECUTIVE SESSION

PURCHASE OF REAL PROPERTY

Attachments:

Will be forwarded.

AIA[®] Document B101[™] – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Eighteenth (18th) day of February in the year Two Thousand Twenty (2020)

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

BETWEEN the Architect's client identified as the Owner:

(Name, legal status, address and other information)

The City of Tupelo
Post Office Box 1485
71 East Troy Street (38804)
Tupelo, Mississippi 38802-1485
Telephone Number: (662) 841-6513
Fax Number: (662) 840-2075

and the Architect:

(Name, legal status, address and other information)

PryorMorrow PC
Post Office Box 7066
1150 South Green Street, Building 1, Suite F (38804)
Tupelo, Mississippi 38802-7066
Telephone Number: (662) 840-8062
Fax Number: (662) 840-8092

for the following Project:

(Name, location and detailed description)

The City of Tupelo
Fire Station #2
Tupelo, Mississippi
PryorMorrow Project Number 2020502
Intended Project Location: Northwest corner of Blair Street and Clayton Avenue in
Tupelo, Mississippi
Project Description: The project includes pre-schematic design, schematic design, design
development, construction documents, bidding, and construction administration services
for a new fire station for The City of Tupelo

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

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

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

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
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- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
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- 13 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

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

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

A pre-schematic design, schematic design, design development, construction documents, bidding, and construction administration for a new Fire Station #2 for The City of Tupelo.

§ 1.1.2 The Project's physical characteristics:

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

The new facility is intended to be located at the northwest corner of Blair Street and Clayton Avenue in Tupelo. If another location is selected, the Owner will inform the Architect prior to the Architect's beginning the pre-schematic design.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

To be determined based upon the Owner's program, the established scope of work, and the pre-schematic design.

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

Init.

.1 Design phase milestone dates, if any:

Completion of programming and pre-schematic design: To be determined by The City of Tupelo and based upon the recommendation of the Architect.

Completion of construction documents and advertisement for bids: To be determined by The City of Tupelo and based upon the recommendation of the Architect.

.2 Construction commencement date:

To be determined by The City of Tupelo

.3 Substantial Completion date or dates:

To be determined. It is to be noted that site work, weather, material delivery delays, other uncontrollable events, and acts of God could affect any substantial completion dates.

.4 Other milestone dates:

Not applicable.

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Competitive bid.

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

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

Not applicable.

(Paragraph Deleted)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:

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

Jason L. Shelton
Mayor
and
Don Lewis
Chief Operations Officer
and
Thomas Walker
Fire Chief
The City of Tupelo
Post Office Box 1485
71 East Troy Street (38804)
Tupelo, Mississippi 38802-1485
Telephone Number: (662) 841-6513
Fax Number: (662) 840-2075

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

As indicated in 1.1.7.

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

To be determined and provided by the Owner. The Owner may elect to assign the responsibility of geotechnical engineering and reimburse the Architect for such services.

.2 Civil Engineer:

To be determined and provided by the Owner. The Owner may elect to assign the responsibility for civil engineering and reimburse the Architect for such services.

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

(1) Hazardous materials and removal design: The Owner shall reimburse the Architect for inspections for hazardous materials and, if necessary, removal designs.

(2) Mechanical, plumbing, and electrical engineering: The Architect, with the Owner's approval, shall secure the services of the Engineer shown below. The Owner shall reimburse the Architect for the design and site inspection services of mechanical, plumbing, and electrical engineering consultants.

PryorMorrow PC
Post Office Box 167
5227 South Frontage Road (39701)
Columbus, Mississippi 39703-0167
Telephone Number: (662) 327-8990
Fax Number: (662) 327-8991

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

Rud B. Robison, Jr., AIA
Principal
and
William V. Dexter, Jr., AIA
Principal
PryorMorrow PC
Post Office Box 7066
1150 South Green Street, Building 1, Suite F (38804)

Init.

Tupelo, Mississippi 38802-7066
Telephone Number: (662) 840-8062
Fax Number: (662) 840-8092

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Fowler Engineering, LLC

1989 Oak Tree Cove, Suite A
Hernando, Mississippi 38632
Telephone Number: (662) 469-9571
Fax Number: (662) 469-9571

.2 Mechanical Engineer:

Refer to 1.1.9.3 above.

.3 Electrical Engineer:

Refer to 1.1.9.3 above.

§ 1.1.11.2 Consultants retained under Supplemental Services:

Unknown at the time of execution of this Agreement but may be determined at a later date as necessary.

§ 1.1.12 Other Initial Information on which the Agreement is based:

The Owner is not seeking LEED design or LEED certification.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

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

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

Init.

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

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

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

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars and Zero Cents (\$ 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.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, 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.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) each accident, One Million Dollars and Zero Cents (\$ 1,000,000.00) each employee, and One Million Dollars and Zero Cents (\$ 1,000,000.00) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) per claim and One Million Dollars And Zero Cents (\$ 1,000,000.00) in the aggregate.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect 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 Architect'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.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The 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 Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may

include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

~~**§ 3.5.3.1** Proposal Documents shall consist of proposal requirements and proposed Contract Documents.~~

~~**§ 3.5.3.2** The Architect shall assist the Owner in obtaining proposals by:~~

- ~~.1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;~~
- ~~.2 organizing and participating in selection interviews with prospective contractors;~~
- ~~.3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,~~
- ~~.4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.~~

~~**§ 3.5.3.3** If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.~~

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

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§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

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

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

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect (refer to 11.5)
§ 4.1.1.2 Multiple preliminary designs	Architect
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Not Provided
§ 4.1.1.5 Site evaluation and planning	Architect and Civil Engineer
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Architect and Civil Engineer
§ 4.1.1.9 Landscape design	Owner
§ 4.1.1.10 Architectural interior design	Architect (refer to 4.1.2.1 below)
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Not Provided
§ 4.1.1.14 Conformed documents for construction	Not Provided
§ 4.1.1.15 As-designed record drawings	Not Provided
§ 4.1.1.16 As-constructed record drawings	General Contractor (refer to 4.1.2.1 below)
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided

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§ 4.1.1.20	Architect's coordination of the Owner's consultants	Not Provided
§ 4.1.1.21	Telecommunications/data design	Not Provided
§ 4.1.1.22	Security evaluation and planning	Not Provided
§ 4.1.1.23	Commissioning	Not Provided
§ 4.1.1.24	Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25	Fast-track design services	Not Provided
§ 4.1.1.26	Multiple bid packages	Not Provided
§ 4.1.1.27	Historic preservation	Not Provided
§ 4.1.1.28	Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.29	Other services provided by specialty Consultants	Not Provided
§ 4.1.1.30	Other Supplemental Services	Not Provided

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

4.1.1.10 Limited to basic color selections.

4.1.1.16 Provided by the General Contractor as part of the required closeout documents for the specific project.

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

Not applicable.

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b)

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- contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
 - .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
 - .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
 - .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
 - .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
 - .9 Evaluation of the qualifications of entities providing bids or proposals;
 - .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
 - .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 One weekly (1 weekly) visits to the site by the Architect ~~during construction~~. The weekly site visit services shall be provided for the original period of time prescribed in the Contractor's contract for construction. Weekly site visit services will be provided at an hourly rate beyond the Contractor's original prescribed time period established in the Owner-Contractor Agreement. Should the Contractor be granted time extensions beyond the original time period established in the Owner-Contractor Agreement via change order, weekly site visit services will be provided at an hourly rate. Refer to the attached Exhibit "A" for PryorMorrow's hourly rates.
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within Thirty-six (36) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

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ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe 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.

§ 5.5 The Owner 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.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 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.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

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§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

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

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

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other: *(Specify)*

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

§ 8.3 Arbitration

~~§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

~~§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

~~§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

§ 8.3.4 Consolidation or Joinder

~~§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.~~

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

Not applicable.

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

Not applicable.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of

the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

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

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)

The Owner shall compensate the Architect for pre-schematic design of a new Fire Station #2. The compensation for this pre-schematic design shall be a lump sum in the amount of Twelve Thousand Dollars and Zero Cents (\$12,000.00).

.2 Percentage Basis
(Insert percentage value)

Seven percent (7%) of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

Geotechnical engineering consultants: The Owner shall reimburse the Architect for consultants to provide geotechnical/soils investigations.

Civil engineering consultants: The Owner shall reimburse the Architect for consultants to provide topographic surveys, civil engineering design services, and civil site inspections during construction.

Hazardous materials consultants: The Owner shall reimburse the Architect for consultants to provide services related to hazardous materials inspections and removal designs.

Mechanical, plumbing, and electrical engineering consultants: The Owner shall reimburse the Architect for the design and site inspection services of mechanical, plumbing, and electrical engineering consultants.

.3 Other
(Describe the method of compensation)

Not applicable.

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Refer to the attached Exhibit "A" for PryorMorrow's hourly rates.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Refer to the attached Exhibit "A" for PryorMorrow's hourly rates.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Ten percent (10%), ~~or as follows:~~
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Programming and Schematic Design Phase	Twenty-five	percent (	25	%)
Design Development Phase	Fifteen	percent (	15	%)
Construction Documents Phase	Thirty-five	percent (	35	%)
Procurement Phase	Five	percent (	5	%)
Construction Phase	Twenty	percent (	20	%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Refer to the attached Exhibit "A" for PryorMorrow's hourly rates.

Employee or Category	Rate (\$0.00)
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§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 ~~Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;~~
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;

Init.

- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Zero percent (0 %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

Not applicable.

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

~~**§ 11.10.1.2** If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.~~

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Forty-five (45) 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 Architect.

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

Legal prevailing rate.

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

Init.

Not applicable.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

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

Not applicable.

- .3 Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

☐ AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

☒ Other Exhibits incorporated into this Agreement:

(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

(1) Exhibit "A": PryorMorrow's Hourly Rates.

- .4 Other documents:

(List other documents, if any, forming part of the Agreement.)

Not applicable.

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

OWNER (Signature)

Jason L. Shelton, Mayor
(Printed name and title)

ARCHITECT (Signature)

Rud B. Robison, Jr., AIA, Principal
(Printed name, title, and license number, if required)

ARCHITECT (Signature)

William V. Dexter, Jr., AIA, Principal
(Printed name, title, and license number, if required)

Init.

The City of Tupelo
Fire Station #2
Tupelo, Mississippi
PryorMorrow Project Number 2020502
HOURLY RATES

Principal	\$165.00 per hour
Architect	\$145.00 per hour
Landscape Architect	\$119.00 per hour
Engineer	\$145.00 per hour
Construction Administrator	\$112.00 per hour
Intern Architect/Engineer	\$ 86.00 per hour
CAD Technician 3	\$ 78.00 per hour
CAD Technician 1	\$ 66.00 per hour
Accounting	\$ 59.00 per hour
Marketing	\$ 49.00 per hour
Clerical	\$ 46.00 per hour
Mileage	\$.565 per mile

EXHIBIT "A"



Columbus, MS
Roger A. Pryor, AIA : John C. Morrow, AIA : Corey D. Ravenhorst, PE : Michael W. Taylor, AIA
P.O. Box 167 : 5227 S. Frontage Rd. : Columbus, MS 39703 : P 662 327 8990 : F 662 327 8991

Tupelo, MS
Rud B. Robison, Jr., AIA : William V. Dexter, Jr., AIA
P.O. Box 7066 : 1150 S. Green St., Ste. 1F : Tupelo, MS 38802 : P 662 840 8062 : F 662 840 8092

Brandon, MS
J. Guadalupe Arellano, AIA
118 Service Dr., Ste. 9 : Brandon, MS 39042 : P 601 829 6915 : F 601 829 6916



AGENDA REQUEST

TO: Mayor and City Council
FROM: Chuck Williams
DATE March 4, 2020
SUBJECT: SURPLUS FOR AUCTION

Request:

Surplus for Auction / Removed from Assets –

10 Ton Hydraulic Floor Jack – PW Shop

Nissan Versa – Developmental Services

Coffee Table and Chairs – CVB

6x12 Trailer – P&R

Knuckleboom and Loader - PW

Attachments:

A. Memo requesting surplus for auction



Public Works Memo

To: Kim Hanna

From: Chuck Williams

Date: March 4, 2020

Surplus for Auction

Please add the following surplus items to the March 17, 2020 Council Meeting Agenda –

Surplus for Auction

Asset 2427 Nissan Versa BC14443 3N1BC11EX8L401511 12/19/07 \$12,300.00

Transferred from Developmental Services to Public Works to be auctioned

Asset 3294 1 Round Coffee Table, 2 red chairs, 2 beige chairs

Transferred from CVB Welcome Center – No longer in use – PW Shop

G00599 10 Ton Hydraulic Truck Jack BC11612 SN 8660W25135 TW956168 11/01/85 1081.25

No longer in use – safety issues – PW Shop

Asset 1517 6x12 Green Trailer, BC10784, 76-100 (104)

Transferred from P&R to PW to surplus

G05702 957206 TRUCK INTERNATIONAL 10656 1HTSHAAR81H343018 VEH 044 04/28/00 49,180.67

G05770 957206 LOADER, 120C PRENTICE 10723 57118 VEH 044 08/10/00 32,400.00

No longer in use

Thank you –

Chuck Williams

Public Works Director