RESOLUTION NO. R-21-15

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF CAMPTON HILLS, KANE COUNTY, ILLINOIS AND LAUB CONSTRUCTION, INC.

WHEREAS, the Village of Campton Hills, Kane County, Illinois (the *"Village"*) is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

WHEREAS, the Village and Laub Construction, Inc., (*"Laub"*) desire to execute an agreement for construction management and contractor services, a copy of which is attached hereto and made a part hereof as Exhibit A (the "Agreement"); and

WHEREAS, the Village President and Board of Trustees of the Village of Campton Hills (the *"Corporate Authorities"*) deem it advisable and in the best interest of the health, safety and welfare of the residents of the Village to enter into the Agreement.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Campton Hills, Kane County, Illinois, as follows

Section 1. That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

Section 2. The Agreement by and between the Village and Laub, which is attached hereto and made a part hereof as Exhibit A, is hereby approved in substantially the form presented to the Village Board with such necessary non-material changes as may be authorized by the Village President, the execution thereof to constitute the approval by the Village of any and all changes or revisions therein contained.

Section 3. The Village President, Village Clerk and Village Administrator are hereby authorized and directed to execute and deliver the Agreement and any and all documents necessary to implement the provisions, terms and conditions thereof, as therein described.

Section 4. That the officials and officers of the Village are further hereby authorized to undertake actions on the part of the Village as contained in the Agreement to complete satisfaction of the provisions, terms or conditions stated therein

Section 5. If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity thereof shall not affect any other provision of this Resolution.

Section 6. All ordinances, resolutions, motions or orders in conflict with this Resolution are hereby repealed to the extent of such conflict.

Section 7. This Resolution shall be in full force and effect upon its passage, approval, and publication in the manner provided by law.

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Passed this 19 day of October, 2021, pursuant to a roll call vote as follows:

	AYES	NAYES	ABSENT	ABSTAIN
Trustee _____				
Trustee Susan P George	✓		✓	
Trustee Jim McKelvie	✓			
Trustee Mike Millette	✓			
Trustee Edward Muncie	✓			
Trustee Wendy K. White Eagle				
President Michael Tyrrell				

APPROVED this 19 day of October, 2021.

Michael Tyrrell, Village President

(SEAL)

ATTEST: Lynn Baez

Lynn Baez, Village Clerk

AIA® Document A133™ – 2019

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

AGREEMENT made as of the day of in the year 2021
(In words, indicate day, month, and year.)

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

Village of Campton Hills
40W270 LaFox Road, Suite B
Campton Hills, IL 60175-7624
(630) 584-5700

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

Laub Construction, Inc.
1585 Beverly Ct., Suite 127
Aurora, IL 60502-8766
(630) 454-4631

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

Police Station / Village Hall Renovation

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

Studio 222 Architects LLC
222 South Morgan Street, Suite 4B
Chicago, IL 60607
(312) 850-4970

The Owner and Construction Manager 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.

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

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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, as described in Section 4.1.1:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

§ 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 Project shall include renovations to the existing main level and lower level Police Station and Village Hall spaces. Select exterior modifications including ADA upgrades are included in the project scope

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

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TBD

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

.1 Design phase milestone dates, if any:

TBD

.2 Construction commencement date:

TBD

.3 Substantial Completion date or dates:

TBD

.4 Other milestone dates:

TBD

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

Competitive Bid Managed by Construction Manager. Schedule and Phasing Plan to be developed in Collaboration with Owner and Architect

§ 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

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

President Mike Tyrrell
40W270 LaFox Road, Suite B
Campton Hills, IL 60175-7624
(630) 584-5700

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

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(List name, address and other contact information.)

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

.1 Geotechnical Engineer:

.2 Civil Engineer:

.3 Other, if any:
(List any other consultants retained by the Owner, such as a Project or Program Manager.)

TBD

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Timothy Schmitt
Studio 222 Architects LLC
222 South Morgan Street, Suite 4B
Chicago, IL 60607
(312) 850-4970

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Diana Book
Laub Construction, Inc.
1585 Beverly Ct., Suite 127
Aurora, IL 60502-8766
(630) 945-5731

(Paragraphs Deleted)

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(Paragraphs Deleted)

(Paragraph Deleted)

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

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

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

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

§ 2.2 Relationship of the Parties

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

§ 2.3 General Conditions

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

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

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§ 2.3.3 As between Owner and Construction Manager, on the one hand, and Trade Contractors whose contracts are assigned from Owner to Construction Manager, on the other hand, the term "Contractor" as used in A201-2017, or any of the Contract Documents shall mean the individual Trade Contractors whose contracts have been assigned from Owner to Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

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

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require. During the Preconstruction Phase of the Project, in accordance with the provisions of 70 ILCS 705/11(k), the Construction Manager shall prepare the bid documents for the Project and shall advertise for, and obtain competitive bids from interested contractors and suppliers ("Trade Contractors") for the various divisions of Work on the Project necessary to complete the construction of the Project in conformance with the competitive bidding requirements. All contracts for construction on the Project shall be awarded to the respective Trade Contractors that are determined to be the lowest responsible bidder for the particular division of Work as determined by the Owner upon advice from the Construction Manager. Upon receipt of the submitted bids, Owner shall determine those submitted bids that qualify as the lowest responsible bidder for each division of Work on the Project upon consultation with the Construction Manager. Upon the Owner's determination of the lowest responsible bidder for each division of Work, the Owner shall award the contract for construction to the respective Trade Contractor for each division of Work necessary to complete the Project. Construction Manager shall be responsible for preparing all awarded contracts with the Trade Contractors and coordinating the execution of those contracts. All prepared contracts with the Trade Contractors shall be subject to approval by the Village and its legal counsel. After the award of and execution of the respective construction contract between each Trade Contractor and the Owner, each construction contract shall be immediately assigned to the Construction Manager via the execution of the Assignment of Trade Contract Agreement Form attached hereto at Exhibit 1. The Construction Manager shall be obligated to accept the assignment of each of the awarded contracts to the Trade Contractors determined to be the lowest responsible bidder for each division of Work on the Project and to execute the Assignment of Trade Contract Agreement Form. The bid documents for the Project shall provide that by submitting a bid on the Project, the bidder shall be deemed to have consented to the Owner's assignment of the contract to the Construction Manager. With respect to such assigned contracts, the Construction Manager shall comply with all requirements under Illinois law in any contract with a Trade Contractor or other subcontractor performing Work on the Project or the purchase of supplies and other materials for the Project not necessarily provided by a Trade Contractor, including, but not limited to, compliance with the Prevailing Wage Act, competitive bidding requirements, change order requirements, and non-discrimination provisions, etc. Based on the submitted bids by the participating bidders, the Construction Manager shall submit its Guaranteed Maximum Price prior to the award of any contracts. Each contract awarded to the respective Trade Contractors shall be in a form approved by the Owner. Unless otherwise agreed, these form contracts shall include the General Conditions of the Contract for Construction, AIA Document A201 – 2017 edition (as modified by the Owner).

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

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§ 3.1.3 Consultation

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

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

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using 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.

§ 3.1.4 Project Schedule

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

§ 3.1.5 Phased Construction

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

§ 3.1.6 Cost Estimates

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

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

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

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

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

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

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

§ 3.1.11 Subcontractors and Suppliers

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

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

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

§ 3.1.12 Procurement

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

§ 3.1.13 Compliance with Laws

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

§ 3.1.14 Other Preconstruction Services

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

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2. Upon the presentment of the Guaranteed Maximum Price proposal from the Contractor, the Owner shall have the right to terminate this Contract in its sole and absolute discretion. To the extent the Owner terminates this Contract, the Contractor shall be entitled to compensation in an amount not to exceed the amount to paid for the preconstruction services under this Contract.

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

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

.1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;

.2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;

.3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;

.4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and

.5 A date by which the Owner must accept the Guaranteed Maximum Price.

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

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

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

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

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

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

§ 3.3 Construction Phase

§ 3.3.1 General

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

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

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any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.1.3 Construction Manager shall be responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work on the Project under this Contract and shall ensure that all Trade Contractors and subcontractors perform the Work in accordance with the Contract Documents for the Project.

§ 3.3.2 Administration

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

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

§ 3.3.2.3 Monthly Report

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

§ 3.3.2.4 Daily Logs

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

§ 3.3.2.5 Cost Control

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

§ 3.3.2.6 Performance by Trade Contractors.

If any Trade Contractor fails to comply with its contract for construction, the Construction Manager shall take prompt action to cure such failure and to enforce such Trade Contractor's or supplier's covenants, agreements and obligations in connection with the

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Project.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

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

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

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable

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contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

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

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

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

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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

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

§ 4.2 Owner's Designated Representative

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

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

§ 4.3 Architect

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

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ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:
(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

Ten Thousand Dollars ($10,000)

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Individual or Position	Rate

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

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within Twelve (12) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

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

§ 5.2.2 All payments made under this Contract shall be made in conformance with the provisions of the Local Government Prompt Payment Act 50 ILCS 505/1 *et seq*

(Paragraph Deleted)

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

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

§ 6.1.2 The Construction Manager's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

A Five Percent (5%) fee will be added to the Cost of the Work as described in this agreement and for all other work the Owner requires the Construction Manager to oversee.

In addition, Construction Manager shall be entitled to the following compensation:

Insurance Cost: 1% of the total Cost of the Work for insurance costs.

General Conditions: A lump sum fee of TBD to be paid in equal installments over the course of construction or as otherwise agreed by the parties for the general conditions costs related to the project,

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which includes compensation for the wages and salaries of the Construction Manager's supervisory and administrative personnel performing work on the project.

General Requirements: Reimbursement for materials or services that the Construction Manager purchases directly and not part of a Trade Agreement. These costs to include a 10% overhead. These materials and services could include, but are not limited to, dumpsters, portable toilets, safety supplies, etc.

Project Extension Costs: Up to TBD for costs associated with schedule extension beyond the control of the Construction Manager.

Performance and Payment Bonds: The reasonable cost of payment and performance bonds if the Owner requests the Construction Manager to provide for the Project.

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

Once the Guaranteed Maximum Price has been established, the Construction Manager's fee will become fixed. Should the Cost of the Work increase by the way of a properly issued change order by the Owner, the Construction Manager's fee of 5.0 Percent plus 1% for insurance will be applied to this additional Work. Should the Cost of the Work decrease, the Construction Manager's fee and insurance cost shall remain unchanged.

§ 6.1.4

Intentionally omitted

§ 6.1.5
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§ 6.1.6

(Paragraph Deleted)

Intentionally omitted

§ 6.1.7 Other:

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Intentionally omitted

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

§ 6.3 Changes in the Work
§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The

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Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

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

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

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

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

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

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

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

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

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

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops. This work, if any, would be incidental tasks which are not included as part of any Prime Trade Agreement for the project.

§ 7.2.2
Intentionally omitted

§ 7.2.2.1

(Paragraph Deleted)

Intentionally omitted

§ 7.2.3
Intentionally omitted

§ 7.2.4
Intentionally omitted

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

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Trade Contractors whose trade contracts have been assigned by Owner for Work and services on the Project in accordance with the terms and/or requirements of the contracts awarded to such Trade Contractors in accordance with this Agreement.

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

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

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be removed from the site by the Construction Manager.

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

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

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

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

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

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

§ 7.6 Miscellaneous Costs

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

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

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

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

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

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

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

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

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

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

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

§ 7.6.10
Intentionally omitted

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

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

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

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

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

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

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Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

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

§ 7.9 Costs Not To Be Reimbursed

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

- **.1** Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- **.2** Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- **.3** Expenses of the Construction Manager's principal office and offices other than the site office;
- **.4** Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- **.5** The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- **.6** Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- **.7** Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- **.8** Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- **.9** Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.0 The Construction Manager shall obtain from all Trade Contractors and all other entities supplying labor or materials on the Project, partial or complete waivers, sworn statements, and other necessary documentation with each request for a progress payment. Partial payments to the Trade Contractors shall reflect the required retainage amounts as set forth in Section 11.1.8.1 and Section 11.1.8.2.

§ 8.1

Intentionally omitted

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

§ 8.3 The Owner shall have the title to all Work completed in the course of construction and to all materials furnished, for which payment has been made by the Owner.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver

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such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1
Intentionally omitted

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

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

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

Documents. Each Trade Contractor's Application for Payments shall be reviewed by the Architect and the Construction Manager and when certified for payment shall be paid from funds provided on a timely basis by the Owner in accordance with procedures to be mutually and reasonably established by the Owner and Construction Manager.

§ 11.1.2

Intentionally omitted

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

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

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

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

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

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

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

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

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

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

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

.3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;

.5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 11.1.8.

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§ 11.1.8 Retainage

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

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

§ 11.1.8.1.1 The following items are not subject to retainage:

Partial payments to the Trade Contractors shall reflect retention amounts of ten percent (10%), which shall be retained by the Owner until completion of the Work or as otherwise agreed upon between Owner and Construction Manager.

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

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PAGE 1

AGREEMENT made as of the day of in the year 2021

...

Village of Campton Hills
40W270 LaFox Road, Suite B
Campton Hills, IL 60175-7624
(630) 584-5700

...

Laub Construction, Inc.
1585 Beverly Ct., Suite 127
Aurora, IL 60502-8766
(630) 454-4631

...

Police Station / Village Hall Renovation

...

Studio 222 Architects LLC
222 South Morgan Street, Suite 4B
Chicago, IL 60607
(312) 850-4970

PAGE 2

The Project shall include renovations to the existing main level and lower level Police Station and Village Hall spaces. Select exterior modifications including ADA upgrades are included in the project scope

PAGE 3

TBD

...

TBD

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...

TBD

...

TBD

...

TBD

...

Competitive Bid Managed by Construction Manager. Schedule and Phasing Plan to be developed in Collaboration with Owner and Architect

...

Not applicable

...

President Mike Tyrrell
40W270 LaFox Road, Suite B
Campton Hills, IL 60175-7624
(630) 584-5700

PAGE 4

TBD

...

Timothy Schmitt
Studio 222 Architects LLC
222 South Morgan Street, Suite 4B
Chicago, IL 60607
(312) 850-4970

...

Diana Book
Laub Construction, Inc.
1585 Beverly Ct., Suite 127
Aurora, IL 60502-8766
(630) 945-5731

...

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

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...

~~*(List any Owner-specific requirements to be included in the staffing plan.)*~~

PAGE 5

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

...

~~*(List any Owner-specific requirements for subcontractor procurement.)*~~

...

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

PAGE 6

§ 2.3.3 As between Owner and Construction Manager, on the one hand, and Trade Contractors whose contracts are assigned from Owner to Construction Manager, on the other hand, the term "Contractor" as used in A201-2017, or any of the Contract Documents shall mean the individual Trade Contractors whose contracts have been assigned from Owner to Construction Manager.

...

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require. During the Preconstruction Phase of the Project, in accordance with the provisions of 70 ILCS 705/11(k), the Construction Manager shall prepare the bid documents for the Project and shall advertise for, and obtain competitive bids from interested contractors and suppliers ("Trade Contractors") for the various divisions of Work on the Project necessary to complete the construction of the Project in conformance with the competitive bidding requirements. All contracts for construction on the Project shall be awarded to the respective Trade Contractors that are determined to be the lowest responsible bidder for the particular division of Work as determined by the Owner upon advice from the Construction Manager. Upon receipt of the submitted bids, Owner shall determine those submitted bids that qualify as the lowest responsible bidder for each division of Work on the Project upon consultation with the Construction Manager. Upon the Owner's determination of the lowest responsible bidder for each division of Work, the Owner shall award the contract for construction to the respective Trade Contractor for each division of Work necessary to complete the Project. Construction Manager shall be responsible for preparing all awarded contracts with the Trade Contractors and coordinating the execution of those contracts. All prepared contracts with the Trade Contractors shall be subject to approval by the Village and its legal counsel. After the award of and execution of the respective construction contract between each Trade Contractor and the Owner, each construction contract shall be immediately assigned to the Construction Manager via the execution of the Assignment of Trade Contract Agreement Form attached hereto at Exhibit 1. The Construction Manager shall be obligated to accept the

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assignment of each of the awarded contracts to the Trade Contractors determined to be the lowest responsible bidder for each division of Work on the Project and to execute the Assignment of Trade Contract Agreement Form. The bid documents for the Project shall provide that by submitting a bid on the Project, the bidder shall be deemed to have consented to the Owner's assignment of the contract to the Construction Manager. With respect to such assigned contracts, the Construction Manager shall comply with all requirements under Illinois law in any contract with a Trade Contractor or other subcontractor performing Work on the Project or the purchase of supplies and other materials for the Project not necessarily provided by a Trade Contractor, including, but not limited to, compliance with the Prevailing Wage Act, competitive bidding requirements, change order requirements, and non-discrimination provisions, etc. Based on the submitted bids by the participating bidders, the Construction Manager shall submit its Guaranteed Maximum Price prior to the award of any contracts. Each contract awarded to the respective Trade Contractors shall be in a form approved by the Owner. Unless otherwise agreed, these form contracts shall include the General Conditions of the Contract for Construction, AIA Document A201 – 2017 edition (as modified by the Owner).

PAGE 8

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2. Upon the presentment of the Guaranteed Maximum Price proposal from the Contractor, the Owner shall have the right to terminate this Contract in its sole and absolute discretion. To the extent the Owner terminates this Contract, the Contractor shall be entitled to compensation in an amount not to exceed the amount to paid for the preconstruction services under this Contract.

PAGE 10

§ 3.3.1.3 Construction Manager shall be responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work on the Project under this Contract and shall ensure that all Trade Contractors and subcontractors perform the Work in accordance with the Contract Documents for the Project.

...

~~§ 3.3.2.5~~ § 3.3.2.5 **Cost Control**

...

§ 3.3.2.6 Performance by Trade Contractors.

...

If any Trade Contractor fails to comply with its contract for construction, the Construction Manager shall take prompt action to cure such failure and to enforce such Trade Contractor's or supplier's covenants, agreements and obligations in connection with the

...

~~**ARTICLE**~~

...

Project.

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...

ARTICLE 4 OWNER'S RESPONSIBILITIES

PAGE 12

Ten Thousand Dollars ($10,000)

...

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within Twelve (12) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

...

§ 5.2.2 ~~Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid ( ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.~~All payments made under this Contract shall be made in conformance with the provisions of the Local Government Prompt Payment Act 50 ILCS 505/1 *et seq*

...

~~*(Insert rate of monthly or annual interest agreed upon.)*~~

...

~~%~~

...

A Five Percent (5%) fee will be added to the Cost of the Work as described in this agreement and for all other work the Owner requires the Construction Manager to oversee.

...

In addition, Construction Manager shall be entitled to the following compensation:

Insurance Cost: 1% of the total Cost of the Work for insurance costs.

General Conditions: A lump sum fee of TBD to be paid in equal installments over the course of construction or as otherwise agreed by the parties for the general conditions costs related to the project, which includes compensation for the wages and salaries of the Construction Manager's supervisory and administrative personnel performing work on the project.

General Requirements: Reimbursement for materials or services that the Construction Manager purchases directly and not part of a Trade Agreement. These costs to include a 10% overhead. These materials and services could include, but are not limited to, dumpsters, portable toilets, safety supplies, etc.

Project Extension Costs: Up to TBD for costs associated with schedule extension beyond the control of the Construction Manager.

Performance and Payment Bonds: The reasonable cost of payment and performance bonds if the Owner requests the Construction Manager to provide for the Project.

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PAGE 13

Once the Guaranteed Maximum Price has been established, the Construction Manager's fee will become fixed. Should the Cost of the Work increase by the way of a properly issued change order by the Owner, the Construction Manager's fee of 5.0 Percent plus 1% for insurance will be applied to this additional Work. Should the Cost of the Work decrease, the Construction Manager's fee and insurance cost shall remain unchanged.

...

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

...

Intentionally omitted

...

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

...

Intentionally omitted

...

~~§ 6.1.6 Liquidated damages, if any:~~

...

~~*(Insert terms and conditions for liquidated damages, if any.)*~~

...

Intentionally omitted

...

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

...

Intentionally omitted

PAGE 14

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops. This work, if any, would be incidental tasks which are not included as part of any Prime Trade Agreement for the project.

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...

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

...

Intentionally omitted

...

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

...

~~*(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)*~~

...

Intentionally omitted

...

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

...

Intentionally omitted

...

~~§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.~~
Intentionally omitted

PAGE 15

Payments made by the Construction Manager to ~~Subcontractors in accordance with the requirements of the subcontracts and~~ Trade Contractors whose trade contracts have been assigned by Owner for Work and services on the Project in accordance with the terms and/or requirements of the contracts awarded to such Trade Contractors in accordance with this Agreement.

...

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

PAGE 16

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

PAGE 17

§ ~~8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.~~8.0
The Construction Manager shall obtain from all Trade Contractors and all other entities supplying labor or materials on the Project, partial or complete waivers, sworn statements, and other necessary documentation with each request for a progress payment. Partial payments to the Trade Contractors shall reflect the required retainage amounts as set forth in Section 11.1.8.1 and Section 11.1.8.2.

...

§ 8.1
Intentionally omitted

...

§ 8.3 The Owner shall have the title to all Work completed in the course of construction and to all materials furnished, for which payment has been made by the Owner.

PAGE 18

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

...

Intentionally omitted

...

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

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...

~~§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:~~Documents. Each Trade Contractor's Application for Payments shall be reviewed by the Architect and the Construction Manager and when certified for payment shall be paid from funds provided on a timely basis by the Owner in accordance with procedures to be mutually and reasonably established by the Owner and Construction Manager.

...

§ 11.1.2

...

Intentionally omitted

PAGE 20

~~*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*~~ *Partial payments to the Trade Contractors shall reflect retention amounts of ten percent (10%), which shall be retained by the Owner until completion of the Work or as otherwise agreed upon between Owner and Construction Manager.*

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_____

(Signed)

_____

(Title)

_____

(Dated)

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