July 12, 2021

To: Mayor Carbone

From: Ed Arum and Mario Longobucco

Re: O&G – Construction Management Contract

I’ve enclosed the O&G contract with all exhibits. The Building Committee has approved the contract.

Please add this to the next City Council agenda for their execution of the agreement. Mario and I will be attending the meeting when the date is set.

Thank you in advance for your continued cooperation and assistance on this project.

Any questions please contact me.

✓ CC: Jonathan Draper
AGREEMENT made as of the 2nd day of January in the year 2021
(In words, indicate day, month, and year.)

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

City of Torrington
140 Main Street
Torrington, CT 06790

and

Torrington Board of Education
c/o Torrington Public Schools
355 Migeon Avenue
Torrington, CT 06033

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

O&G Industries, Inc.
112 Wall Street
Torrington, CT 06790

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

New Middle/High School and Central Office Administration Project
50 Major Besse Drive
Torrington, CT

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

The S/L/A/M Collaborative, Inc.
80 Glastonbury Boulevard
Glastonbury, CT 06033

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.

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.
The only part of the Work authorized by the Owner at the time of the execution of this Agreement is the Work to be performed for Preconstruction Services described in Section 3.1. Unless and until the Owner provides the Construction Manager with a written notice to proceed with the Work for the Construction Phase, the Construction Manager shall not proceed with any such Work. Any Work performed by or on behalf of the Construction Manager without such written authorization to proceed shall be performed at the sole cost and expense of the Construction Manager without any right to reimbursement from the Owner.

The Construction Manager commenced services on the Project on or about January 2, 2021. As to services that were performed by or for the Construction Manager in connection with the Project prior to the execution of this Agreement, it is the intent of the parties to this Agreement that all of the terms and conditions of this Agreement shall govern and apply to such services as if this Agreement had been executed prior to the commencement thereof.
TABLE OF ARTICLES

1 INITIAL INFORMATION
2 GENERAL PROVISIONS
3 CONSTRUCTION MANAGER'S RESPONSIBILITIES
4 OWNER'S RESPONSIBILITIES
5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
7 COST OF THE WORK FOR CONSTRUCTION PHASE
8 DISCOUNTS, REBATES, AND REFUNDS
9 SUBCONTRACTS AND OTHER AGREEMENTS
10 ACCOUNTING RECORDS
11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES
12 DISPUTE RESOLUTION
13 TERMINATION OR SUSPENSION
14 MISCELLANEOUS PROVISIONS
15 SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT
EXHIBIT B INSURANCE AND BONDS

ARTICLE 1 INITIAL INFORMATION

§ 1.1 The Initial Information provided by the Owner is 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.)

See Educational Specifications for the New Middle/High School and the Educational Specifications for the Central
Administrative Office each dated June 16, 2020 and attached hereto as Attachment 1.

§ 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 Owner intends to replace the current Torrington High School located at 50 Major Besse Drive Torrington with a
combined High/Middle School and Central Administrative Office on the campus of the existing High School. It is
anticipated that the size of the new high school/middle school will be approximately 277,020 gross square feet and the size
of the new Central Administrative Office will be approximately 15,550 gross square feet. The facility should
accommodate 1,571 students in grades 7-12.
§ 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.)

One Hundred Thirty Million Seven Hundred Ninety Thousand Five Hundred Sixty-Eight and 00/100 Dollars ($130,790,568.00)

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

1. Design phase milestone dates, if any:
   - Schematic Design – Estimated Completion 4/30/21
   - Design Development – Estimated Completion 9/17/21
   - Construction Documents – Estimated Completion 2/25/22

2. Construction commencement date:
   - March of 2022

3. Substantial Completion date or dates:
   - Construction of New Middle/High School and Central Administrative Office ("New Buildings") – Anticipated to be Substantially Complete in August of 2024.
   - Demolition of Existing High School and Site Work for new buildings ("Demo and Site Work") – Demolition of Existing High School anticipated to be Substantially Complete in December of 2024.
   - Site Work anticipated to be Substantially Complete in May of 2025.

4. Other milestone dates:

§ 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.)

§ 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.)

§ 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 (or such other form of agreement to which the parties mutually agree), 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.)
§ 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:
(List name, address and other contact information.)

Chris Cykle
Vice President
Construction Solutions Group, LLC
1137 Main Street
East Hartford, CT 06108
Tel. No. Office: 203-889-6197; Cell: 203-206-1281
Email Address: chrisc@csgroup-llc.com

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

1. Geotechnical Engineer: N/A

2. Civil Engineer: N/A

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

The Owner shall be responsible for engaging consultants for the following:
(i) Commissioning Agent as required per CGS §16a-38k;
(ii) Materials testing laboratory and inspection services during construction; and
(iii) Third party code review for the purposes of assisting local officials with permit review if required.

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

Kemp Mohrhardt
The AIA/IA Collaborative, Inc.
80 Glastonbury Boulevard
Glastonbury, CT 06033

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

David M. Cravanzola
O&G Industries, Inc.
112 Wall Street
Torrington, CT 06790
Tel. No. Office: 860-496-4292; Cell: 860-601-0034
Email Address: davidcravanzola@ogind.com

§ 1.1.13 The Owner’s requirements for the Construction Manager’s staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

§ 1.1.14 The Owner’s requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

See Article 9.

§ 1.1.15 Other Initial Information provided by the Owner:

Phase I/Phase II Environmental Site Assessment for Torrington High School prepared by Fuss & O’Neill dated June 25, 2020.

Property Survey Overall Existing Conditions Map City of Torrington High School dated January 10, 2014 Rev. 1/16/14 prepared by Hricak Associates, LLC.

§ 1.2 The Owner and Construction Manager may reasonably rely on the Initial Information for the purposes of the Preconstruction Phase of the Project. The Initial Information shall not be relied upon by the Construction Manager in the performance of the Work nor shall any part of the Initial Information constitute a Contract Document (as defined in Section 2.1) except to the extent such Initial Information is identified in the Guaranteed Maximum Price Amendment as a Contract Document (as defined in Section 2.1).

§ 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, AIA Document A201-2017 General Conditions of the Contract for Construction, as modified by the Owner (as so modified, referred to hereinafter as the "AIA Document A201-2017"), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement as Contract Documents, 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 and execution of the Guaranteed Maximum Price Amendment, the Contract Documents will also include the Guaranteed Maximum Price Amendment executed by the parties, the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment as Contract Documents 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 professional 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 all of which shall be consistent with the Contractor's Standard of Care (as defined in Section 3.1.2.3 of the AIA Document A201-2017). 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 Nondisclosure
Any information obtained by the Construction Manager from the Owner or Architect may not be used, published, distributed, sold or divulged by the Construction Manager, its Subcontractors, or any Sub-subcontractors for such party's own purposes or for the benefit of any person, firm, corporation or other entity other than the Owner, without the prior written consent of the Owner. Any information obtained by the Construction Manager or its Subcontractors or any Sub-subcontractors that is designated by the Owner in accordance with the Legal Requirements (as hereafter defined) as confidential shall not be disclosed to any other parties without the prior written consent of the Owner.

(Paragraphs deleted)

§ 2.4 Legal Requirements
The Construction Manager shall be responsible for the performance of the Work in accordance with the Contract Documents, the Conditions (as hereafter defined) and all Legal Requirements, and the Contractor shall obtain and post all necessary permits at the site. The term "Conditions" shall mean and include all applicable laws, rules, regulations, ordinances, codes, orders, guidelines, standards and conditions of funding imposed on the Work and/or Project by the Agencies, as defined hereinafter. The term "Legal Requirements" shall mean and include the Conditions and all applicable local, state and federal laws, statutes, ordinances, codes, building codes, rules, regulations, permits, and orders enacted, promulgated, issued or ordered by any governmental body or public or quasi-public authority having jurisdiction over the Work, the Construction Manager and/or the site of the Project.

§ 2.4.1 The "Agencies" are the Connecticut Department of Administrative Services ("DAS") (including without limitation, its Office of School Construction Grants Review) and all other governmental authorities having regulatory or administrative jurisdiction over the Work and/or the Project and all representatives or designees of the DAS and such other governmental authorities.

§ 2.4.2 Without limiting the responsibility of the Construction Manager under other provisions of the Contract Documents, the Construction Manager shall conduct the Work in accordance with all Legal Requirements including without limitation that:

1. Construction Manager will comply with the requirements of Connecticut Regulation Sections 16a-38k-1 through 9 (High Performance Building Requirements), including any waste stream management requirements to the extent such High Performance Building Requirements are specified in the Contract Documents;
2. Construction Manager will provide Change Orders and supporting documents and other required documentation in the form required by the DAS and any other of the Agencies;
3. Construction Manager will comply with bidding requirements of Section 3.1.12 herein; and
4. Construction Manager will maintain records and reports as required by the DAS and other Agencies.

§ 2.4.3 Notwithstanding anything to the contrary in this Agreement, the Construction Manager shall attend such meetings and site-visits, and make such submissions, as are necessary to comply with the Legal Requirements.

§ 2.5 General Conditions
§ 2.5.1 For the Preconstruction Phase, the AIA Document A201™—2017 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.
§ 2.5.2 For the Construction Phase, the general conditions of the contract shall be the AIA Document A201-2017, which document is incorporated herein by reference. The term "Contractor" as used in AIA Document A201–2017 shall mean the Construction Manager.

ARTICLE 3  CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager’s Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of AIA Document 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 individual identified in Section 1.1.12 is authorized to act on behalf of the Construction Manager with respect to the Project and such individual may not be changed without the Owner’s prior approval.

§ 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 guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price under the Guaranteed Maximum Price Amendment. 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 in writing any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

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

§ 3.1.3 Consultation

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

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

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E201-2013, Building Information Modeling and Digital Data Exhibit (or such other form of agreement as agreed by the parties), 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, estimates of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimates 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 estimates 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 an estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action. Unless otherwise instructed by the Owner, the Construction Manager shall provide such cost estimates when the Schematic Design Documents are 100% complete, the Design Development Documents are 100% complete, and when the Construction Documents are 90% complete. The cost estimates shall be broken down by trade or scope package and by phase of construction and shall include supporting data. The cost estimates will also have a comparison to the Construction Manager's historical cost data for similar size and project type.

§ 3.1.6.2.1 If any estimate submitted to the Owner exceeds previously approved estimates, the Construction Manager shall provide an explanation for the cost increase and make appropriate recommendations to the Owner and Architect as to ways to address such increase. The Construction Manager agrees to work proactively with the Owner and the Architect to provide and evaluate options, based on the Construction Manager's experience and industry knowledge, for the Owner's review and acceptance. These options shall include change, scope, products, and constructability recommendations. The Construction Manager will be responsible for maintaining a complete log of all of the value engineering and product proposals.

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

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's 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 E334™-2019, Sustainable Projects Exhibit. Construction Manager as Contractor Edition (or such other form of agreement as mutually agreed by the Owner and the Construction Manager), attached to this Agreement.
§ 3.1.11 Subcontractors and Suppliers
§ 3.1.11.1 The Construction Manager shall provide a subcontracting plan that complies with the requirements of the Contract Documents and the Legal Requirements and addresses 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 and be followed by the Construction Manager in connection with any bid packages 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 expeditiously 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 reasonably 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 and assume all responsibility for them.

§ 3.1.13 Compliance with Laws
The Construction Manager shall comply with, and give notices in compliance with, Applicable Laws as are 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 (including without limitation that referred to in Section 9.3 of this Agreement). The Construction Manager shall be responsible for all fines and penalties assessed against the Owner or the Construction Manager by a governing authority to the extent such fines and penalties arise from the violation of any of the foregoing by the Construction Manager, any Subcontractor or Sub-subcontractor (as defined in Section 3.1 of the AIA Document A201-2017 or anyone for whom or which any of them is responsible.

§ 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.)

Construction Manager shall develop a graphic site logistics plan showing lay-down areas and access in and out of the Project site and a Project specific safety plan.

§ 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 proposal shall be consistent with, and comply with the requirements of this Section 3.2. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager’s estimate of the Cost of the Work (including without limitation the General Conditions Costs Lump Sum as defined in Section 3.2.5 below and insurance reimbursement per Section 7.6.1), the Construction Contingency as defined in Section 3.2.4, and the Construction Manager’s Fee described in Section 6.1.2.

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

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following and such other information and documentation as may be required by the DAS:
.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 establishing the Guaranteed Maximum Price and preparing 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 General Conditions Costs; Lump Sum, the Construction Contingency; and the Construction Manager’s Fee;

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

5 A date (the "Acceptance Date") by which the Owner must accept the Guaranteed Maximum Price proposal (as such proposal may be revised by mutual agreement of the parties) which shall not be sooner than forty-five days after the Construction Manager’s submission of a Guaranteed Maximum Price proposal that complies with the requirements of this Section 3.2.

§ 3.2.4 Construction Contingency

.1 The "Construction Contingency" is the amount specified as the construction contingency within the Guaranteed Maximum Price which amount is available to reimburse the Construction Manager for unanticipated costs provided such costs are of the type included in the definition of, and are properly reimbursable as, the Cost of the Work under Sections 7.1 through and including 7.7 hereafter but not the proper basis for a Change Order. Construction Manager shall submit a written request to the Owner for Owner’s consent to the reimbursement of such cost together with an explanation of the reason such cost is to be incurred. The Construction Manager shall not be entitled to reimbursement of any such cost unless, prior to incurring such cost, the Owner provided such consent.

.2 The Construction Contingency shall not exceed three percent (3%) of the Construction Manager’s estimate of the Cost of the Work included in the Guaranteed Maximum Price, provided that for the purposes of calculating the Construction Contingency such estimated Cost of the Work shall not include the General Conditions Costs Lump Sum.

.3 At final completion of the Work. One Hundred percent (100 %) of any unspent Construction Contingency shall inure to the benefit of the Owner.

§ 3.2.5 General Conditions Costs

"General Conditions Costs" (GCC hereafter) are the Construction Manager’s indirect costs incurred in the performance of the Work which indirect costs are included as reimbursable under Sections 7.1 through and including 7.7 and are not excluded from reimbursement pursuant to Section 7.8, and which indirect costs are identified as General Conditions Costs in the General Conditions Costs Matrix attached hereto as Attachment 2. The Guaranteed Maximum Price shall include a lump sum amount for General Conditions Costs equal to Three Million Nine Hundred Thirty Thousand Nine Hundred Forty and 00/100 Dollars ($3,963,940.00) (the "General Conditions Costs Lump Sum") which includes Three Million Four Hundred Sixty-Six Thousand One Hundred Thirty and 00/100 Dollars ($3,466,130.00) for the construction of the New Buildings ("New Buildings GCC") and Four Hundred Thirty-Seven Thousand Eight Hundred Ten and 00/100 Dollars ($437,810.00) for the Demo and Site Work ("Demo and Site Work GCC").

The New Buildings GCC is based on a thirty (30) month duration for the Construction Phase of the New Buildings ("New Building Construction Phase Duration") and the Demo and Site Work GCC is based on a ten (10) month period for the Construction Phase of the Demo and Site Work ("Demo and Site Work Construction Phase Duration"). To the extent that the Construction Manager is entitled, pursuant to the terms and conditions of the Contract Documents, to an extension of the Contract Time which extends the New Building Construction Phase Duration, the Construction Manager shall be entitled to an increase in the New Buildings GCC in the amount of One Hundred Fifteen Thousand Five Hundred Thirty-Eight and 00/100 Dollars ($115,538.00) per month for the extension period. To the extent that the Construction Manager is entitled, pursuant to the terms and conditions of the Contract Documents, to an extension of the Contract Time which extends the Demo and Site Work Construction Phase Duration, the Construction Manager shall be entitled to an increase in the Demo and Site Work GCC in the amount of Forty-Three Thousand Seven Hundred Eighty-One and 00/100 Dollars ($43,781.00) per month for the extension period. These amounts shall be subject to a per diem adjustment for any partial month. Other than the foregoing, the Construction Manager shall not be entitled in any increase in the General Conditions Costs Lump Sum except as provided in Section 6.3.5.

§ 3.2.6 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal and the proposed Construction Schedule (as defined in Section 3.2.11). 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. If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal (as it may be revised by mutual agreement of the parties) and the Construction Schedule in writing or on or before the Acceptance Date, the Guaranteed Maximum Price proposal (as it may have been revised by mutual agreement of the parties prior to acceptance) 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, documents, 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 If necessary to clarify the scope of the Work, 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 Owner is exempt from the payment of sales, use and similar taxes. The Construction Manager shall be familiar with the current regulations of the Connecticut Department of Revenue Services and the sales or use tax on materials or supplies exempted by such regulations shall not be included as part of the Guaranteed Maximum Price. A sales tax certificate will be provided by the Owner upon request.

§ 3.2.10 By executing the Guaranteed Maximum Price Amendment pursuant to Section 3.2.6, the Construction Manager represents and warrants, which representation and warranty is hereby incorporated into such Guaranteed Maximum Price Amendment, that the Drawings and Specifications and other materials and information listed in Guaranteed Maximum Price Amendment describe the scope and construction requirements of the Work in detail sufficient to enable the Construction Manager to establish firmly the Guaranteed Maximum Price, subject to the agreed upon written assumptions and clarifications included in the Guaranteed Maximum Price Amendment.

§ 3.2.11 Contract Time

§ 3.2.11.1 Along with the Guaranteed Maximum Price proposal, the Construction Manager shall prepare and submit to the Owner, for review and approval, a schedule for completion of the Work (as approved by the Owner and as defined in Section 3.10 of AIA Document A201-2017, the "Construction Schedule"). The Construction Schedule shall comply with the requirements of Section 3.10 of the AIA Document A201-2017.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of AIA Document 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 delivery to the Construction Manager of a Notice to Proceed with the Construction Phase. Under no circumstances shall the activities of the Construction Phase commence prior to the Construction Manager's receipt of the Owner's Notice to Proceed.

§ 3.3.2 Administration and Meetings

§ 3.3.2.1 The Construction Manager shall schedule and conduct weekly meetings with its foremen and supervisory staff to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Owner and the Architect shall be provided with reasonable notice of such meetings and be permitted to attend. The Construction Manager shall also schedule and conduct progress meetings at the Project site with the Owner and the Architect on a bi-weekly basis (every other week) or (more frequently if necessary). A qualified representative of the Construction Manager shall attend such meetings. 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 submittal schedule in accordance with Section 3.10.2 of AIA Document 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. Such reports shall be in a format and include such information and supporting documents as required by the Owner. Such reports shall also compare actual progress of the Work with the progress required under the Construction Schedule and shall describe any material deviations from the Construction Schedule or projected future deviations and the causes therefor and, where applicable, note corrective measures taken or proposed to be taken.

§ 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 Quality Plan
The Construction Manager shall develop a quality plan to describe how quality will be ensured in the execution of the Work in accordance with the Contract Documents and communicate the same to all Subcontractors.

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.

§ 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.

§ 4.1.3 The Owner shall establish and periodically update the Owner’s budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner’s other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner’s budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Architect, in consultation with the Construction Manager, shall thereupon recommend to the Owner options for changes in the Project’s scope and quality to meet the Owner’s budgetary requirements.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase and unless otherwise provided in the Contract Documents, 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 to the extent relevant to and necessary for 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 reasonably rely on the accuracy of written information furnished by the Owner but shall exercise proper precautions relating to, and shall be solely responsible for, 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. 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 invents and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 When such services are required for the performance of the Work, the Architect 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 subsurface 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 which are required for 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 Exhibits, Construction Manager as Contractor Edition, attached to this Agreement.

§ 4.2 Owner’s Designated Representative

In Section 1.1.8, the Owner identified the 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 provided that the Construction Manager affords the Owner with ample time to render such decisions and furnish such information. Except as otherwise provided in Section 4.2.1 of AIA Document A201-2017, the Architect does not have such authority.

§ 4.2.1 Legal Services. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that the Owner deems 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 the Owner’s agreement with the Architect. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect’s scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

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

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

The lump sum amount of Two Hundred Twenty-Four Thousand Two Hundred and 00/100 Dollars ($224,200.00).

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager’s Consultants and Subcontractors, if any, are set forth below.

(If applicable, attach an exhibt of hourly billing rates or insert them below)

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<tr>
<th>Individual or Position</th>
<th>Rate</th>
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§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within Thirteen (13) months of the date of commencement of such services (the "Preconstruction Period"), through no fault of the Construction Manager, any Subcontractor, Sub-subcontractor, or any other person or entity for whom or which any of them is responsible, the Construction Manager’s compensation for Preconstruction Phase services shall be adjusted based on the monthly rate for such services of Seventeen Thousand Two Hundred Forty-Six and 00/100 Dollars ($17,246.00) per month. This monthly rate shall be adjusted on a per diem basis for any partial month.

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

§ 5.2.2 Payments
(Paragraphs deleted)
for Preconstruction Phase Services are due and payable no later than thirty (30) days after presentation of the Construction Manager’s properly submitted invoice along with all documentation reasonably requested by the Owner to substantiate the Construction Manager’s entitlement to payment of the invoice amount. Payments due and payable and remaining unpaid shall bear interest only to the extent required by Connecticut law and, if so required, at the minimum required rate.

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 Work in accordance with the Contract Documents. 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:
(Statement of percentage of Cost of the Work or other provision for determining the Construction Manager’s Fee.)

The Construction Manager’s Fee shall be fixed at an amount equal to One and One Quarter Percent (1.25%) of the estimate of the Cost of the Work included as a component of the Guaranteed Maximum Price. By way of clarification, for the purposes of the calculation of the Construction Manager’s Fee, the estimate of the Cost of the Work shall not include the Construction Contingency.

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

§ 6.1.3.1 For such changes in the Work that result in a net increase in the Cost of the Work for which the Construction Manager is entitled to reimbursement under Article 7 of the AIA A201-2017, the Construction Manager shall be entitled to a fee equal to 1.25% of such net increase.

Markup by the Construction Manager for overhead and profit on Work performed pursuant to Change Orders and Construction Change Directives shall not exceed the adjustment in the Construction Manager’s Fee to the extent permitted under this Section 6.1.3.1.

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

(i) Markup by any first tier Subcontractor for overhead and profit on Work performed directly by such Subcontractor pursuant to Change Orders and Construction Change Directives shall not exceed Ten Percent (10%) of the net increase in the Subcontractor’s direct costs for labor and materials for its portion of the Work;
(ii) Markup by any first tier Subcontractor for overhead and profit on Work performed by its Sub-subcontractor pursuant to Change Orders and Construction Change Directives shall not exceed Five Percent (5%) of the net increase in the Sub-subcontractor’s subcontract price for the Work; and
(iii) Markup by any Sub-subcontractor for overhead and profit on Work performed by such Sub-subcontractor pursuant to Change Orders and Construction Change Directives shall not exceed Ten Percent (10%) of the net increase in the Sub-subcontractor’s direct cost for labor and materials for its portion of the Work.

For change order Work that is performed with the Construction Manager’s own forces in accordance with, and subject to, the requirements set forth in Section 9.1, the Construction Manager shall be entitled to overhead and profit as is included in its bid price for such Work and the Construction Manager’s Fee pursuant to Section 6.1.3.1.
For change order Work that is the subject of Unit Prices under this Agreement (or as may be set forth in the Guaranteed Maximum Price Amendment) there will be no markup permitted on the applicable Unit Prices.

The Construction Manager shall include the markup limitations set forth in this Section 6.1.4 in all Subcontracts and require in all Subcontracts that the Subcontractors include such limitations in all lower tier Subcontracts.

§ 6.1.5 Intentionally Omitted.

§ 6.1.6 TIME IS OF THE ESSENCE in the completion of the Work.

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

TIME IS OF THE ESSENCE in the completion of the Work. It is acknowledged that the Construction Manager’s failure to achieve Substantial Completion of the Work within the Contract Time provided by the Contract Documents will cause the Owner to incur substantial economic damages and losses of types and in amounts which are impossible to compute and ascertain with certainty as a basis for recovery by the Owner of actual damages, and that liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, in lieu of actual damages for such delay, the Contractor agrees that liquidated damages may be assessed and recovered by the Owner as against Construction Manager and its Surety in the event of delayed completion, without the Owner being required to present any evidence of the amount or character of actual damages sustained by reason thereof. Therefore, Construction Manager shall be liable to the Owner for payment of liquidated damages in the amount of One Thousand and 00/100 Dollars ($1,000.00) for each day that Substantial Completion is delayed beyond the date set forth herein for the achievement of Substantial Completion, as adjusted for time extensions as may have been granted pursuant to the terms and conditions of the Contract Documents. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Construction Manager shall pay them to Owner without limiting Owner’s right to terminate this Agreement as provided elsewhere herein.

The collection of liquidated damages by the Owner under this Section 6.1.6 shall be in addition to, and not in lieu of, the Owner’s right to recover from the Construction Manager the Owner’s increased costs to complete the Project and other costs, expenses and damages as provided in Section 14.2 of the AIA A201-2017. Further, such liquidated damages shall in no way limit the Owner’s other rights under this Agreement or the Owner’s entitlement to damages for any other injury, damage or loss, other than for delay, for which Construction Manager may be responsible.

§ 6.1.7 Other:

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

§ 6.1.7.1 The Construction Manager shall not be entitled to share in any savings should the final Contract Sum be less than the Guaranteed Maximum Price and the Construction Manager shall be responsible for all costs and expenses to the extent that the final Contract Sum exceeds the Guaranteed Maximum Price.

§ 6.1.7.2 Unit Prices

Unit prices, if applicable, will be set forth in the Guaranteed Maximum Price Amendment (the "Unit Prices"). Unit Prices shall only be applicable to changes in the Work and shall be valid for the life of the Project. Unit Prices shall be inclusive of all costs associated with the complete performance and installation of the portion of the Work subject to the Unit Price including without limitation labor, materials, engineering, transportation, taxes and insurance as well as overhead and profit. Unit Prices shall be applicable for both additions and deductions from the Work.

§ 6.2 Guaranteed Maximum Price

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

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.
§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201-2017 and shall be subject to the limitations set forth in Sections 6.1.3 and 6.1.4.

§ 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 The Construction Manager shall not be entitled to an increase in the General Conditions Costs Lump Sum in connection with any change in the Work unless (i) pursuant to the terms and conditions of the Contract Documents the change in the Work entitles the Construction Manager to an extension of the Contract Time which extends the New Building Construction Phase Duration and/or the Demo and Site Work Construction Phase Duration, (ii) such change in the Work was made at the request of the Owner, and (iii) such change in the Work was not necessitated by the fault of the Construction Manager, its Subcontractors, Sub-subcontractors, material suppliers or any other entity or person for which or whom any of them is responsible.

§ 6.3.6 The Contractor shall provide in a form satisfactory to the Owner and the Agencies, as applicable, itemized statements of the costs associated with change order work including, without limitation, certified payrolls and copies of invoices and other Supporting Documentation (as defined in and in accordance with Section 9.3 of the AIA Document A201–2017).

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. The Owner shall not be obligated to reimburse costs that constitute General Conditions Costs to the extent that such costs exceed the General Conditions Costs Lump Sum (as it may be adjusted in accordance with the Section 3.2.5).

§ 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 that is performed with Construction Manager's own forces in accordance with, and subject to, the requirements set forth in Section 9.1 at the site or, with the Owner's prior approval, at off-site workshops.

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

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

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

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

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

§ 7.4 Costs of Materials and Equipment incorporated in the Completed Construction
§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction are part of Subcontract Costs described in Section 7.3.

§ 7.4.2 Intentionally Omitted.

§ 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 are part of Subcontract Costs described in Section 7.3.

§ 7.5.2 Rental charges for temporary facilities, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal are part of Subcontract Costs described in Section 7.3.

§ 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, are part of Subcontract Costs described in Section 7.3.

§ 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. The parties have agreed that the reimbursement rate for insurance shall be equal to .85% of the Guaranteed Maximum Price (excluding the insurance reimbursement). The reimbursement amount for premiums payable in connection with the labor and material payment and performance bonds required hereunder shall be based equal to the actual premium charged by the surety for such bonds as evidenced by invoices from the surety.

§ 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 of the self-insurance and the costs therefore.

§ 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 Subject to Section 3.2.9, sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

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

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

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

§ 7.6.6 Costs for 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, or disputes between the Construction Manager and any Subcontractor which arise due to the Construction Manager's failure to comply with its obligations under the Contract Documents or the applicable subcontract agreement, 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 With the Owner's prior approval, 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 other than expenses incurred in traveling to and from the site of the Project.

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

§ 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 damaged Work executed by the Construction Manager. Subcontractors, Sub-subcontractors or suppliers, provided that such damaged Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, any Subcontractor, Sub-subcontractor or any other person or entity for whom or which any of them is responsible, and only to the extent that the cost of repair is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others. In no event shall the Cost of the Work include the costs to repair or correct defective Work or Work not in accordance with the Contract Documents.

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

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

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

§ 7.9 Costs Not To Be Reimbursed
§ 7.9.1 The Cost of the Work shall not include the items listed below:

1. Salaries and other compensation of the Construction Manager’s personnel stationed at the Construction Manager’s principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
2. Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior written 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. Costs due to the negligence of or failure to fulfill a specific responsibility of the Contract by the Construction Manager, Subcontractors, Sub-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;
9. Costs for services incurred during the Preconstruction Phase;
10. Amounts required to be paid by the Construction Manager for federal, state, or local income or franchise taxes;
11. Labor, material, and equipment costs or any other costs incurred which are recoverable from Subcontractors or Suppliers or which are otherwise included in a contract with a Subcontractor or supplier; and
12. Losses resulting from lost, damaged or stolen tools and equipment (unless the Contract Documents require that the Owner maintain insurance that expressly covers these losses).

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS
§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained. The Construction Manager shall promptly notify the Owner of potential cash discounts of which the Construction Manager becomes aware to enable Owner to take advantage of same. The Construction Manager shall not obtain for its own benefit any discounts, rebates or refunds in connection with the Work unless the Owner fails, within ten (10) days after notice to the Owner of the potential discount, rebate or refund, to furnish funds to the Construction Manager as are necessary to obtain such discount, rebate or refund.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.
ARTICLE 9  SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Neither the Construction Manager, nor any subsidiary, parent, company, or other related party (as defined in Section 7.8) of the Construction Manager may perform any part of the Work with its own forces ("Self-performed Work") except with the prior written approval of the Owner and the Commissioner of Administrative Services and, subject to such approval, in compliance with all requirements of the DAS as are applicable to the Self-performed Work.

§ 9.1.1 No element of the Work may be released for bidding prior to Construction Manager's receipt of the written notice from the Owner to proceed with bidding the Work.

§ 9.1.2 The Construction Manager shall be solely responsible for assuring that the procurement and award of Subcontracts for the Work are conducted in a manner consistent with the Legal Requirements and the Contract Documents. Such responsibilities shall include, without limitation, compliance with the requirements of Connecticut General Statutes Sections 4b-91, 10-287(b)(1), 4a-100, 4a-60, et seq.; 4a-60a and 46a-68c, as applicable.

§ 9.1.3 The Construction Manager shall develop bidders' interest in the Project and, with the assistance of the Architect, develop bid packages for the various components of the Work. The Construction Manager shall develop, for the review and approval by the Owner, the criteria which the Construction Manager will use to determine whether a bidder is responsible and qualified. The Construction Manager shall include all such criteria as approved by the Owner in the bid packages. To the extent permitted under the Legal Requirements, the Construction Manager shall not be obligated hereunder to contract with an individual or entity with which the Construction Manager has a reasonable objection. For each subcontract with an estimated value of One Hundred Thousand Dollars ($100,000.00) or more, each bid shall be accompanied by a bid bond or certified check in an amount which shall be Ten Percent (10%) of the bid submitted.

§ 9.1.3.1 The Construction Manager shall summarize the bids received for each component of the Work in a spreadsheet format, including names and addresses of the bidders and all analysis and adjustments necessary to permit a meaningful comparison among the bidders. The Construction Manager shall also provide, as appropriate, information concerning each bidder's financial strength, past performance, and current workload, along with Construction Manager's recommendations for award. If the Owner or the Architect disagrees with the Construction Manager's recommendation for award, the Architect will notify the Construction Manager thereof within ten (10) days of receipt of the bid summary. Such notice shall include the basis for such disagreement.

§ 9.1.3.2 The Construction Manager shall award the Subcontract for each component of the Work to the lowest responsible qualified bidder for such component of the Work only after a public invitation to bid, which shall be advertised in a newspaper having circulation in the town in which construction is to take place and posted on the State Contracting Portal maintained by the State of Connecticut.

§ 9.1.3.3 To the extent that the terms and conditions of this Section Article 9 fail to comply with the Legal Requirements, the Construction Manager shall notify the Owner and unless otherwise instructed by the Owner, shall comply with the Legal Requirements.

§ 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.

§ 9.3 Nondiscrimination Provisions
The Construction Manager shall comply with the requirements set forth in Section 3.1.7 of the AIA A201-2017.

ARTICLE 10  ACCOUNTING RECORDS

§ 10.1 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, records, communications, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall deliver such records to the Owner no later than the date of Final
Completion of the Work shall preserve these records for a period of six years after final payment, or for such longer period as may be required by law.

§ 10.1.2 Records to be available for audit shall include but not be limited to accounting records, written policies and procedures; contract and subcontract files (including proposals of successful and unsuccessful bidders, bid results, etc.); original estimates; estimating worksheets; correspondence invoices; change order files (including documentation covering negotiated settlements); back charge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends; electronic or computer data and any other supporting evidence deemed necessary to substantiate charges. These records shall be open to inspection and subject to an audit and/or reproduction to the extent necessary to adequately permit evaluation and verification of the Cost of the Work, and any invoices, change orders, payments or claims submitted by the contractor or vendor to any of his payees pursuant to the execution of this Agreement.

§ 10.1.3 The Construction Manager shall deliver to the Owner such items as are reasonably requested by the Owner to support costs billed to the Project and shall provide any further assistance requested by the Owner during an audit of the Project.

§ 10.1.4 The Construction Manager shall comply with all accounting procedures and record retention policies reasonably requested by the Owner.

§ 10.1.5 Upon request of the Owner, the Contractor will cooperate, and secure the cooperation of all Subcontractors, suppliers and Sub-subcontractors, and assist the Owner during any audit of the Project conducted by the Owner, the DAS (or any other Agency) at any time after Substantial Completion at no cost to the Owner. Such cooperation shall include providing the Owner with access to all records related to the Project.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

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

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

§ 11.1.3 Each month on or before the 1st day of such month, the Construction Manager shall submit to the Architect and the Owner a final version of an Application for Payment, along with all required Supporting Documentation (as defined in and in accordance with Section 9.3 of the AIA Document A201-2017), for all Work properly performed in the prior month. The Owner shall make payment to the Construction Manager of the amount certified by the Architect to be due and payable under such Application for Payment within thirty (30) days after receipt thereof (along with all required Supporting Documentation).

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

§ 11.1.4 Intentionally Omitted.

§ 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) the Construction Contingency; (3) the General Conditions Costs Lump Sum; (4) insurance costs included in the Guaranteed Maximum Price; (5) bond premiums; and (6) 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 and the Owner 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 provided however, the Construction Manager shall not reallocate amounts between individual line items without the consent of the Owner.

§ 11.1.5.3 When the Construction Manager requests the Owner's consent to reallocate costs from the Construction Contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect and the Owner.

§ 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; and
   .3 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;
   .6 Retainage withheld pursuant to Section 11.1.8; and
   .7. Any additional amounts required by law to be withheld by the Owner due to the Construction Manager's failure to comply with its obligations under Connecticut General Statutes §§4a-60, 4a-60(a) or §§46a-68c to 46a-68f, inclusive. Unless otherwise required by the Legal Requirements, the Owner shall withhold two percent (2%) of each progress payment (the "CHRO Holdback") until such time as the Connecticut Commission on Human Rights and Opportunities ("CHRO") notifies the Owner that it may release the CHRO Holdback to the Construction Manager.

In addition to the foregoing, the Construction Manager shall receive during the Construction Phase of the New Buildings, equal monthly installments of the New Buildings GCC, the amount of which installments shall be based on the New Building Construction Phase Duration, and during the Construction Phase of the Demo and Site Work, equal monthly installments of the Demo and Site Work GCC, the amount of which installments shall be based on the Demo and Site Work Construction Phase Duration. In each case, such installments shall be net of retainage pursuant to Section 11.1.8.1.
§ 11.1.7.3 With the exception of the Construction Manager’s Fee, the Construction Manager shall use payments made under this Agreement solely for the purpose of performance of the Work pursuant to the Contract Documents. Construction Manager shall pay for all labor performed and materials supplied by others in connection with the performance of the Work in accordance with the Contract Documents and as required by the Legal Requirements.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment, 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.)

Five percent (5%) of each progress payment.

§ 11.1.8.1.1 The following items are not subject to retainage:

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

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

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

Upon Substantial Completion of the Work, the Construction Manager may submit a request that the Owner release some or all of the of the retainage held by the Owner provided however that, any release of retainage prior to final payment shall be in the sole discretion of the Owner to be exercised on a case by case basis.

§ 11.1.8.3 Intentionally Omitted.

(Insert any other conditions for release of retainage, such as upon completion of the Owner’s audit and reconciliation upon Substantial Completion.)

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

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

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts (not to exceed 5%), and the Construction Manager shall execute subcontracts in accordance with these agreements.

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

§ 11.1.13 Construction Manager shall pay any amounts due to Subcontractors or suppliers, whether for labor performed or materials furnished, not later than fifteen (15) days after the date the Construction Manager receives payment from the Owner which encompasses labor performed or materials furnished by such Subcontractor or supplier. The Construction Manager shall include in all of its Subcontracts with its Subcontractors and suppliers a requirement that the Subcontractors and suppliers pay any amounts due any Sub-subcontractors or suppliers no later than seven (7) days after
the Subcontractor or supplier receives a payment from the Construction Manager which encompasses labor performed or materials furnished by such Sub-subcontractor or supplier. Retainage withheld by the Construction Manager from Subcontractors and suppliers shall not exceed five percent (5%).

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

1. the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment;

2. the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment (along with all required Supporting Documentation); and

3. a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

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

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

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

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

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

§ 11.2.3.1 If the Construction Manager has, in the course of the Project, failed to pay Subcontractors in accordance with the requirements set forth herein, the Owner may, in its discretion, with five (5) days prior notice to the Construction Manager, make final payment to the Construction Manager by joint checks made payable in each case to the Construction Manager and the appropriate Subcontractor or supplier. The Construction Manager acknowledges and agrees that such payment by joint check shall constitute payment by Owner to the Construction Manager.

§ 11.2.3.2 Notwithstanding anything to the contrary set forth herein or in any other Contract Documents, Owner shall not be required to make final payment until the Construction Manager has submitted all documentation required by the Contract Documents to the Owner and the Owner has accepted the same, including without limitation, all warranties and guarantees associated with the Work and "as built" surveys in form acceptable to the Owner.

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs to correct defective or nonconforming Work, the Construction Manager shall bear and be solely responsible for such costs.

§ 11.3 Interest

Payments due and payable and remaining unpaid shall bear interest only to the extent required by Connecticut law and, if so required, at the minimum required rate.
§ 11.4 Submission by the Owner of a final grant application to the Office of School Construction Grants Review shall not constitute a waiver of any Claims by the Owner.

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

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the 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.)

§ 12.2 Binding Dispute Resolution
For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A201–2017
[ ] Litigation in a court of competent jurisdiction
[ ] Other: (Specify)

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

ARTICLE 13 TERMINATION OR SUSPENSION
§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment
§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may, without prejudice and without waiving any other right or remedy the Owner may have, terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for properly authorized Preconstruction Phase services and Work performed in accordance with the Contract Documents prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this subsection exceed the compensation set forth in Section 5.1. Upon payment by the Owner of the amount obligated under this subsection, the Owner’s obligations to the Construction Manager shall be fully satisfied, and the Construction Manager shall be deemed to have fully released the Owner from any claims or liabilities. Further, the Construction Manager shall, if requested by the Owner, assign to the Owner any subcontract, vendor contract, purchase order, letter of intent or other similar agreement that the Construction Manager has entered into in connection with the Work (any such assignment shall be subject to the terms and conditions of Section 5.4 of the AIA Document A201–2017).
§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

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

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

.1 Take the Cost of the Work incurred by the Construction Manager to the effective date of termination;

.2 Add the Construction Manager's Fee computed upon the Cost of the Work to the effective date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work on the effective date of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and

.3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

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

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

§ 13.2.1 Termination

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

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

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

.2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract the costs and damages incurred, if to be incurred, by the Owner under Article 14 of AIA Document A201–2017.
§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

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

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience)

Not applicable.

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

ARTICLE 14 MISCELLANEOUS PROVISIONS
§ 14.1 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

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

§ 14.3 Insurance and Bonds
§ 14.3.1 Preconstruction Phase
The Construction Manager shall maintain the insurance for the duration of the Preconstruction Services performed under this Agreement as provided in Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

(Table deleted)
(Paragraphs deleted)

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the City of Torrington, the Torrington Board of Education, the State of Connecticut, such other parties as are identified in the Contract Documents and such others as may be required by the Owner as additional insureds for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the insurance policies of such additional insureds and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.
§ 14.3.2 Construction Phase
After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in Exhibit B, and elsewhere in the Contract Documents.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

Notice pursuant to Section 1.6.1 of the General Conditions may be delivered by electronic mail to the email address for the recipient's representative identified in Sections 1.1.8 and 1.1.12, as applicable. The subject line of the email shall include the address of the Project and be electronically flagged as "urgent".

§ 14.5 Other provisions:

§ 14.5.1 Project Labor Agreement. In the discretion of the Owner, the Owner may require that the Project be subject to a Project Labor Agreement. In that event, the Construction Manager shall comply, and shall require that all Subcontractors and Sub-subcontractors (as such terms are defined in the AIA Document A201-2017) comply with the terms and conditions of such agreement.

§ 14.5.2 Execution in Counterparts. This Agreement may be signed in two or more counterparts, each of which shall be treated as an original but which, when taken together, shall constitute one and the same instrument. Signed copies of this Agreement may be faxed and e-mailed with the same force and effect as if the originally executed Agreement had been delivered.

ARTICLE 15 SCOPE OF THE AGREEMENT
§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

1. This AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
2. AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
4. AIA Document A201™-2017
5. 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)

6. Other Exhibits:
(Check all boxes that apply.)

[ ] AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement)
Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Attachment 1 - Educational Specifications
Attachment 2 - General Conditions Costs Matrix
Attachment 3 - Hourly Rates
Attachment 4 - Request for Qualifications
Attachment 5 - Construction Manager's Proposal
Attachment 6 - COVID Related Requirements

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

City of Torrington

OWNER (Signature)

(Printed name and title)
Date: ______________________

Torrington Board of Education

By ______________________

(Its) ______________________
Date: ______________________

O & G Industries, Inc.

CONSTRUCTION MANAGER (Signature)

(Printed name and title)
Date: ______________________