

AIA[®] Document Comparative

C132TM – 2019 Compared to C132TM – 2009

Additions to C132 – 2009 are underlined. Deletions from C132 – 2009 are in ~~strikethrough~~ text.

Title

Standard Form of Agreement Between Owner and Construction Manager as Adviser

Cover Page

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

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

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

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

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

The Owner and Construction Manager agree as follows.

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Article 1 Initial Information

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

(~~Note the disposition for the following items by inserting the requested~~For each item in this section, insert the information or a statement such as “not applicable,” or “unknown at time of execution” ~~or “to be determined later by mutual agreement.”~~)

§ 1.1.1 The Owner's program for the Project:

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

§ 1.1.2 The Project's physical characteristics:

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

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

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

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

.1 ~~Design phase milestone dates, if any:~~

.2 ~~Commencement of construction~~Construction commencement date:

.3 ~~Substantial Completion date or dates:~~

.4 ~~Other milestone dates:~~

.4 ~~Other:~~

§ 1.1.5 The Owner intends the following procurement method for the Project:

~~(Identify method such as competitive bid; or negotiated Contract or multiple Prime Contracts)~~contract.

§ 1.1.6 The Owner's requirements for accelerated or fast-track ~~scheduling~~design and construction, multiple bid packages, or phased construction are set forth below:

~~(List)~~Identify any requirements for fast-track scheduling or phased construction and, if applicable, list number and type of bid/procurement packages.

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

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

§ 1.1.7.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E235™–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E235–2019 is incorporated into this Agreement, the Owner and Construction Manager shall incorporate the completed E235–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.8 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)

§ 1.1.89 The Owner identifies the following representative in accordance with Section 5.5:
(List name, address, and other contact information.)

§ 1.1.910 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.)

§ 1.1.11 ~~10 Unless provided by the Construction Manager, the~~ The Owner ~~will~~ shall retain the following consultants and ~~contractors~~ Contractors:
(List name, legal status, address, and other contact information.)

.1 Land Surveyor:

.2 Geotechnical Engineer:

.3 Civil Engineer:

.4 Contractors, as defined in Section 1.4:

.5 Separate Contractors, as defined in Section 1.4:

.6 Other, if any:

(List any other consultants retained by the Owner, ~~such as a Project or Program Manager, or construction contractor.~~)

§ 1.1.412 The Construction Manager identifies the following representative in accordance with Section 2.45:
(List name, address, and other contact information.)

§ 1.1.4213 The Construction Manager's staffing plan as required under Section 3.3.23 shall include:
(List any specific requirements and personnel to be included in the staffing plan, if known.)

§ 1.1.4314 The Construction Manager's consultants retained under Basic Services, if any:

~~.1 Cost Estimator:~~

(List name, legal status, address, and other contact information.)

~~.2 Other of any consultants:.)~~

§ 1.1.4415 The Construction Manager's consultants retained under ~~Additional~~ Supplemental Services:

§ 1.1.4516 Other Initial Information on which ~~the~~ this Agreement is based:

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

material changes in the Initial Information.

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

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

§ 1.4 The term “Contractors” refers to persons or entities who perform Work under contracts with the Owner that are administered by the Construction Manager and Architect. The term “Contractors” is used to refer to such persons or entities, whether singular or plural. The term does not include the Owner’s own forces, or Separate Contractors, which are persons or entities who perform construction under separate contracts with the Owner not administered by the Construction Manager and Architect.

Article 2 Construction Manager’s Responsibilities

§ 2.1 The Construction Manager shall provide the services as set forth in this Agreement.

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

§ 2.3 The Construction Manager shall provide its services in conjunction with the services of an Architect as described in AIA Document B132™–~~2009~~2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition. The Construction Manager shall not be responsible for actions taken by the Architect.

§ 2.4 The Construction Manager shall coordinate its services with those services provided by the Owner, the Architect, the Contractors, and the Owner’s other consultants and Separate Contractors. The Construction Manager shall be entitled to rely on, and shall not be responsible for, the accuracy and completeness of services and information furnished by the Owner, the Architect, and the Owner’s other consultants and Separate Contractors. The Construction Manager shall provide prompt written notice to the Owner if the Construction Manager becomes aware of any error, omission, or inconsistency in such services or information.

§ 2.5 The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

~~§ 2.5~~ § 2.6 The Construction Manager, as soon as practicable after execution of the Agreement, shall notify the Owner in writing of the names and qualifications of its proposed key staff members. Within 14 days of receipt of the names and qualifications of the Construction Manager’s proposed key staff members, the Owner may reply to the Construction Manager in writing, stating (1) whether the Owner has reasonable objection to a proposed key staff member or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection. The Construction Manager shall not staff any employees on the Project to whom the Owner has made reasonable and timely objection. The Construction Manager shall not change its key staff members without the Owner’s consent, which shall not be unreasonably withheld or delayed.

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

~~§ 2.6~~ § 2.6 The Construction Manager shall maintain the following insurance for the duration until termination of this Agreement. If any of the requirements set forth below ~~exceed~~ are in addition to the types and limits the Construction Manager normally maintains, the Owner shall ~~reimburse~~ pay the Construction Manager for any additional costs set

forth in section 11.7.

~~§ 2.68.1 Comprehensive Commercial~~ General Liability with policy limits of not less than (\$) for each occurrence and (\$) in the aggregate for bodily injury and property damage.

~~§ 2.68.2 Automobile Liability covering vehicles owned, and rented non-owned vehicles operated used, by the Construction Manager with policy limits of not less than (\$) combined single limit and aggregate per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.~~

~~§ 2.68.3 The Construction Manager may use umbrella or excess liability insurance to achieve the required limits and coverage for Comprehensive Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella or excess liability insurance results policies result in the same type of or greater coverage as the coverages required for the individual policies. under Sections 2.68.1 and 2.8.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.~~

~~§ 2.8.4 Workers' Compensation at statutory limits and Employers Liability with a policy limit of limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit.~~

~~§ 2.68.5 Professional Liability covering the Construction Manager's negligent acts, errors and omissions in its the performance of professional services with policy limits of not less than (\$) per claim and (\$) in the aggregate.~~

~~§ 2.6.6 The Construction Manager shall provide to the Owner~~ **§ 2.8.6 Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

~~§ 2.8.7 The Construction Manager shall provide certificates of insurance evidencing to the Owner that evidence compliance with the requirements in this Section 2. 86. The certificates will show the Owner as an additional insured on the Comprehensive General Liability, Automobile Liability, umbrella or excess policies.~~

~~§ 2.9 The Construction Manager shall assist the Owner, Architect, and other Project participants in establishing building information modeling and digital data protocols for the Project using AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.~~

~~§ 2.10 A centralized electronic document management system will be used on the Project, and the Construction Manager shall be designated the Responsible Project Participant in section 3.5 of E203-2013, responsible for managing and maintaining the centralized electronic document management system. The centralized electronic document management system shall include all items listed in Article 3 of E203, and the following: (List any items to be included that are not listed in Article 3 of E203-2013.)~~

~~§ 2.11 The Construction Manager shall retain all Project related documents and information it receives, and the Owner and Architect shall have access to the documents and information. The Construction Manager shall transmit the documents and information to the Owner at final completion.~~

Article 3 Scope of Construction Manager's Basic Services

§ 3.1 Definition

The Construction Manager's Basic Services consist of those described in ~~Sections this Article 3.2 and 3.3,~~ and include usual and customary ~~construction coordination~~ Preconstruction and Construction Phase Services. Services not set forth in this Article 3 are Supplemental or Additional Services. The Owner, Construction Manager, and ~~scheduling, constructability review, cost estimating, and allocation of construction activities among the Multiple Prime~~

Contractors 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.

§ 3.2 Preconstruction Phase

§ 3.2.1 The Construction Manager shall review the program furnished by the Owner and any evaluation of the Owner's program provided by the Architect, to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner and Architect.

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

§ 3.2.3 The Construction Manager shall prepare, and deliver to the Owner, for the Owner's approval, a written Construction Management Plan that includes, at a minimum, the following: (1) preliminary evaluations required in Section 3.2.2, (2) a Project schedule, (3) cost estimates, (4) recommendations for Project delivery method, and (5) Contractors' scopes of Work, ~~if multiple Contractors or fast-track construction will be used.~~ The Construction Manager shall periodically update the Construction Management Plan, for the Owner's approval, over the course of the Project.

§ 3.2.4 The Construction Manager shall prepare and periodically update the Project schedule included in the Construction Management Plan 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 highlight items that affect the Project's timely completion.

§ 3.2.5 The Construction Manager shall update the Project schedule to include the components of the Work, including phasing of construction, times of commencement and completion required of each Contractor, ordering and delivery of products, including those that must be ordered in advance of construction, obtaining the required reviews and approvals of authorities having jurisdiction over the Project, and the occupancy requirements of the Owner.

~~§ 3.42.6 Based on the preliminary design and other design criteria information prepared or provided by the Architect and other Owner consultants, the Construction Manager shall prepare, for the Architect's review and 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 for the Architect's review and Owner's approval. If the Architect suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems and may also provide its own suggestions, including the establishment of sufficient contingency to reasonably anticipate the development of the Project's design documents.~~

~~§ 3.2.57 The Construction Manager shall expeditiously review design documents during their development and advise the Owner and Architect on proposed site use and improvements, selection of materials, and 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; sequencing for phased construction; time requirements for procurement, installation and construction; 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.~~

Note: Former Section 3.2.6 is now Section 3.2.4.

~~§ 3.2.6 The Construction Manager shall prepare and periodically update the Project schedule included in the Construction Management Plan 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 highlight items that could affect the Project's timely completion.~~

§ 3.2.8 The Construction Manager shall review recommendations for systems, materials, or equipment for the impact upon cost, schedule, sequencing, constructability, and coordination among the Contractors. The Construction Manager shall discuss its findings with the Owner and the Architect, and coordinate resolution, as necessary, of any such impacts.

§ 3.2.79 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~~ an estimate of the Cost of the Work ~~of~~ with increasing detail and refinement. The Construction Manager shall include ~~appropriate contingencies in the estimate~~ those costs to allow for further development of the design, bidding or negotiating, price escalation, and market conditions in the estimate of the Cost of the Work. Such estimates, ~~The estimate~~ shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall ~~advise~~ inform the Owner and Architect ~~if it appears in the event~~ that the estimate of Cost of the Work may exceed ~~exceeds~~ the Owner's latest approved Project budget, and make recommendations for corrective action.

§ 3.2.810 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 whenever the Construction Manager determines that the design, or details, adversely affect cost, scope, schedule, constructability, cost or schedule quality of the Project.

§ 3.2.911 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding the assignment of responsibilities for temporary Project facilities and equipment, materials and services for common use of the Contractors. The Construction Manager shall verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.

§ 3.2.1012 The Construction Manager shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors.

§ 3.2.1113 The Construction Manager shall provide recommendations to the Owner on the division of the Project into individual ~~Contracts~~ contracts for the construction of various categories of Work, including the method to be used for selecting Contractors and awarding Contracts. ~~If multiple Contracts are to be awarded, the~~ for Construction. The Construction Manager shall review the Drawings and Specifications and make recommendations as required to provide that (1) the Work of the Contractors is coordinated, (2) all requirements for the Project are assigned to the appropriate Contract, (3) the likelihood of jurisdictional disputes is minimized, and (4) proper coordination is provided for phased construction.

Note: Former Section 3.2.12 is now Section 3.2.5.

~~§ 3.2.12 The Construction Manager shall update the Project schedule to include the components of the Work, including phasing of construction, times of commencement and completion required of each Contractor, ordering and delivery of products, including those that must be ordered well in advance of construction, and the occupancy requirements of the Owner.~~

~~§ 3.2.13 The Construction Manager shall expedite~~ § 3.2.14 The Construction Manager shall make recommendations about, and coordinate the ordering and delivery of, materials in support of the schedule, including those that must be ordered ~~well~~ in advance of construction.

§ 3.2.1515 The Construction Manager shall assist the Owner in selecting, retaining, and coordinating the professional services of surveyors, geotechnical engineers, special consultants, and construction materials testing laboratories required for the Project.

§ 3.2.1616 The Construction Manager shall provide an analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical phases. The Construction Manager shall make recommendations for actions designed to minimize adverse effects of labor shortages.

§ 3.2.1717 The Construction Manager shall assist the Owner in obtaining information regarding applicable requirements for equal employment opportunity programs, and other programs as may be required by governmental and ~~for quasi-~~ governmental authorities for inclusion in the Contract Documents.

§ 3.2.1818 Following the Owner's approval of the Drawings and Specifications, the Construction Manager shall update and submit the latest estimate of the Cost of the Work and the Project schedule for the Architect's review and the Owner's approval.

Note: Former Section 3.2.18 is now Section 3.2.20.

~~§ 3.2.18~~ The Construction Manager shall submit the list of prospective bidders for the Architect's review and the Owner's approval.

§ 3.2.19 The Construction Manager, in consultation with the Owner, shall develop bidders' interest in the Project and establish bidding schedules. The Construction Manager shall assist the Owner and the Architect with the development of the Bidding Documents, which consist of bidding requirements and proposed Contract Documents. The Construction Manager, with the assistance of the Architect, shall issue ~~bidding documents~~ Bidding Documents to bidders and conduct pre-bid conferences with prospective bidders. The Construction Manager shall issue the current Project schedule with each set of ~~bidding documents~~ Bidding Documents. The Construction Manager shall assist the Architect with regard to questions from bidders and with the issuance of addenda.

~~§ 3.2.20~~ The Construction Manager shall ~~receive bids, prepare bid analyses and make recommendations to the Owner for the Owner's award of Contracts or rejection of bids~~ submit a list of prospective bidders for the Architect's review and the Owner's approval.

§ 3.2.21 The Construction Manager, with the assistance of the Architect, shall review bids, and prepare bid analyses, and make recommendations to the Owner for the Owner's award of Contracts for Construction or rejection of bids.

§ 3.2.22 The Construction Manager, with the assistance of the Architect, shall assist the Owner in preparing Contracts for Construction ~~Contracts and~~. The Construction Manager shall advise the Owner on the acceptability of Subcontractors and material suppliers proposed by ~~Multiple Prime~~ Contractors.

~~§ 3.2.22~~ § 3.2.23 The Construction Manager shall assist the Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by the ~~various Multiple Prime~~ Contractors. The Construction Manager shall verify that the Owner has paid applicable fees and assessments. The Construction Manager shall assist the Owner and Architect in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project.

~~§ 3.3 Construction Phase Administration of the Construction Contract~~ § 3.2.24 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E235™–2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, attached to this Agreement.

§ 3.3 Construction Phase

§ 3.3.1 The Construction Manager shall provide on-site administration of the Contracts for Construction in cooperation with the Architect as set forth below and in AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition. If the Owner and Contractor modify AIA Document A232–2019, those modifications shall not affect the Construction Manager's services under this Agreement unless the Owner and the Construction Manager amend this Agreement.

§ 3.3.2

~~§ 3.3.1~~ § 3.3.4 Subject to Section 4.32 and except as provided in Section 3.3.30, the Construction Manager's responsibility to provide Construction Phase Services commences with the award of the initial Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.3.23 The Construction Manager shall provide a staffing plan to include one or more representatives who shall be in attendance at the Project site whenever the Work is being performed.

Note: Former Section 3.3.3 is now Section 3.3.1.

~~§ 3.3.3~~ The Construction Manager shall provide on-site administration of the Contracts for Construction in cooperation with the Architect as set forth below and in AIA Document A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition. If the Owner and Contractor modify AIA Document A232–2009, those modifications shall not affect the Construction Manager's services under this Agreement unless the Owner and the Construction Manager amend this Agreement.

§ 3.3.4 The Construction Manager shall provide administrative, management and related services to coordinate scheduled activities and responsibilities of the ~~Multiple Prime~~ Contractors with each other and with those of the Construction Manager, the Owner and the Architect. The Construction Manager shall coordinate the activities of the ~~Multiple Prime~~ Contractors in accordance with the latest approved Project schedule and the Contract Documents.

§ 3.3.5 ~~Utilizing~~ The Construction Manager shall review and analyze the construction schedules provided by the ~~Multiple Prime~~ Contractors, ~~the Construction Manager shall~~ to update the Project schedule, incorporating the activities of the Owner, Architect, and ~~Multiple Prime~~ Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery and procurement of products, including those that must be ordered well-in advance of construction. The Project schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. The Construction Manager shall update and reissue the Project schedule as required to show current conditions. If an update indicates that the previously approved Project schedule may not be met, the Construction Manager shall recommend corrective action, ~~if any~~, to the Owner and Architect.

§ 3.3.6 The Construction Manager shall schedule and conduct meetings to discuss ~~such matters~~ such as procedures, progress, coordination, and scheduling of the Work, and to develop solutions to issues identified. The Construction Manager shall prepare and promptly distribute minutes to the Owner, Architect and ~~Multiple Prime~~ Contractors.

§ 3.3.7 ~~Utilizing~~ In accordance with the Contract Documents and the latest approved Project schedule, and utilizing information from the ~~Multiple Prime~~ Contractors, the Construction Manager shall review, analyze, schedule and coordinate the overall sequence of construction and assignment of space in areas where the ~~Multiple Prime~~ Contractors are performing Work, ~~in accordance with the Contract Documents and the latest approved Project schedule~~.

§ 3.3.8 The Construction Manager shall schedule coordinate all tests and inspections required by the Contract Documents or governmental authorities, observe the on-site testing and inspections, and arrange for the delivery of test and inspection reports to the Owner and Architect.

§ 3.3.9 The Construction Manager shall endeavor to obtain satisfactory performance from each of the ~~Multiple Prime~~ Contractors. The Construction Manager shall recommend courses of action to the Owner when requirements of a Contract are not being fulfilled.

§ 3.3.10 The Construction Manager shall monitor and evaluate actual costs for activities in progress and estimates for uncompleted tasks and advise the Owner and Architect as to variances between actual costs and budgeted or estimated costs. If ~~the~~ Contractor is required to submit a Control Estimate, the Construction Manager shall meet with the Owner and Contractor to review the Control Estimate. The Construction Manager shall promptly notify the Contractor if there are any inconsistencies or inaccuracies in the information presented. The Construction Manager shall also report the Contractor's cost control information to the Owner.

§ 3.3.11 The Construction Manager shall develop cash flow reports and forecasts for the Project and include them in the Construction Manager's progress reports.

§ 3.3.12 The Construction Manager shall maintain accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, and other Work requiring accounting records.

§ 3.3.12.1 The Construction Manager shall develop and implement procedures for the review and processing of Applications for Payment by ~~Multiple Prime~~ Contractors for progress and final payments.

§ 3.3.12.2 Not more frequently than monthly, the Construction Manager shall review and certify the amounts due the respective Contractors as follows:

- .1 Where there is only one Contractor responsible for performing the Work, the Construction Manager shall, within seven days after the Construction Manager receives the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect.
- .2 Where there ~~are Multiple Prime Contractors~~ is more than one Contractor responsible for performing different portions of the Project, the Construction Manager shall, within seven days after the Construction Manager receives each Contractor's Application for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each Contractor; (2) prepare a

Summary of Contractors' Applications for Payment by summarizing information from each Contractor's Application for Payment; (3) prepare a Project Application and Certificate for Payment; (4) certify the total amount the Construction Manager determines is due all ~~Multiple Prime~~ Contractors collectively; and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

§ 3.3.12.3 The Construction Manager's certification for payment shall constitute a representation to the Owner, based on the Construction Manager's evaluations of the Work and on the data comprising the Contractors' Applications for Payment, that, to the best of the Construction Manager's knowledge, information and belief, the Work has progressed to the point indicated ~~and~~, the quality of the Work is in accordance with the Contract Documents, and the Contractors are entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, ~~to~~; (2) results of subsequent tests and inspections, ~~to~~; (3) correction of minor deviations from the Contract Documents prior to completion; and ~~to~~ (4) specific qualifications expressed by the Construction Manager. The issuance of a Certificate for Payment shall further constitute a recommendation to the Architect and Owner that the Contractor be paid the amount certified.

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

§ 3.3.13 The Construction Manager shall obtain and review the safety programs developed by each ~~of the Multiple Prime Contractors~~ Contractor solely and exclusively for purposes of coordinating the safety programs with those of the other Contractors and for making recommendations to the Owner for any additional safety programs not included measures to be considered in the Work of the ~~Multiple Prime~~ Contractors. The Construction Manager's responsibilities for coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the ~~Contractor, Multiple Prime~~ Contractors, Subcontractors, agents or employees of the ~~Contractors or Multiple Prime~~ Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 3.3.14 The Construction Manager shall determine in general that the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents and notify the Owner, Contractor and Architect of defects and deficiencies in the Work. The Construction Manager shall have the authority to reject Work that does not conform to the Contract Documents and shall notify the Architect about the rejection. The failure of the Construction Manager to reject Work shall not constitute ~~the~~ acceptance of the Work. The Construction Manager shall record any rejection of Work in its daily log and include information regarding the rejected Work in its progress reports to the Architect and Owner pursuant to Section 3.3.2022.1. Upon written authorization from the Owner, the Construction Manager may require and make arrangements for additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not ~~such~~ the Work is fabricated, installed or completed, and the Construction Manager shall give timely notice to the Architect of when and where the tests and inspections are to be made so that the Architect may be present for such procedures.

§ 3.3.15 The Construction Manager shall advise and consult with the Owner and Architect during the performance of its Construction Phase Services. The Construction Manager shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Construction Manager shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work of each of the Contractors, since these are solely the Contractor's rights and responsibilities under the Contract Documents. The Construction Manager shall not be responsible for a Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall be responsible for the Construction Manager's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the ~~Contractor or Multiple Prime~~ Contractors, Subcontractors, or their agents or employees, ~~or any other persons~~ or any other persons or entities performing portions of the Work.

§ 3.3.16 The Construction Manager shall transmit to the Architect requests for interpretations, and requests for information of the meaning and intent of the Drawings and Specifications with, and provide its written recommendation, ~~and~~. The Construction Manager shall assist in the resolution of questions that may arise.

§ 3.3.17 The Construction Manager shall review requests for changes, assist in negotiating Contractors' proposals, submit recommendations to the Architect and Owner, and, if ~~they~~ the proposed changes are accepted or required by the Owner, prepare Change Orders ~~and~~ or Construction Change Directives that incorporate the Architect's modifications to the Contract Documents.

§ 3.3.18 The Construction Manager shall assist the Initial Decision Maker in the review, evaluation and documentation of Claims, subject to Section ~~4.3-12.2.7~~.

§ 3.3.19 Utilizing the submittal schedules provided by each Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from the Owner, Owner's consultants, Owner's ~~separate contractors~~ Separate Contractors and vendors, governmental agencies, and ~~all other~~ participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval.

~~§ 3.3.20~~ The Construction Manager shall promptly review all Shop Drawings, Product Data, Samples, and other submittals from the ~~Multiple Prime~~ Contractors for compliance with the submittal requirements of the Contract, coordinate submittals with information contained in related documents, and transmit to the Architect those that the Construction Manager recommends for approval. The Construction Manager's actions shall be taken in accordance with the Project submittal schedule approved by the Architect, or in the absence of an approved Project submittal schedule, with such reasonable promptness as to cause no delay in the Work or in the activities of the ~~Contractor~~, ~~other Multiple Prime~~ Contractors, the Owner, or the Architect.

~~§ 3.3.20~~ § 3.3.20.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractors by the Contract Documents, the Construction Manager shall review those submittals for sequencing, constructability, and coordination impacts on the other Contractors. The Construction Manager shall discuss its findings with the Owner and the Architect, and coordinate resolution, as necessary, of any such impacts.

§ 3.3.21 The Construction Manager shall keep a daily log containing a record of weather, each Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require.

~~§ 3.3.20.1~~ § 3.3.21.1 The Construction Manager shall collect, review for accuracy, and compile the Contractors' daily logs; and include them in the Construction Manager's reports prepared and submitted in accordance with section 3.3.21.2.

§ 3.3.21.2 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 identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of remaining and outstanding submittals;
- .4 Request for information, Change Order, and Construction Change Directive status reports;
- .5 Tests and inspection reports;
- .6 Status report of nonconforming and rejected Work;
- .7 Daily logs;
- .8 Summary of all ~~Multiple Prime~~ Contractors' Applications for Payment;
- .9 Cumulative total of the Cost of the Work to date including the Construction Manager's compensation and reimbursable expenses at the job site, if any;
- .10 Cash-flow and forecast reports; ~~and~~
- .11 Photographs to document the progress of the Project;
- .12 Status reports on permits and approvals of authorities having jurisdiction; and
- .13 Any other items the Owner may require:

~~§ 3.3.20.2~~ § 3.3.21.3 In addition, for Projects constructed on the basis of the Cost of the Work, the Construction Manager shall include the following additional information in its progress reports:

- .1 ~~Contractor's~~ Contractors' work force ~~report~~ reports;
- .2 Equipment utilization report;

-
- .3 Cost summary, comparing actual costs to updated cost estimates; and
 - .4 Any other items as the Owner may require:

§ 3.3.2122 Utilizing the documents provided by the ~~Contractor~~Contractors, the Construction Manager shall ~~maintain~~make available, at the Project site ~~one copy of all Contracts, Drawings, Specifications, addenda, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to record all~~indicate field changes and selections made during construction, and ~~in addition, the approved Shop Drawings, Product Data, Samples, and similar required submittals. The Construction Manager shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor~~These shall be in electronic form or professional engineer. The Construction Manager shall make all such records ~~paper copy, available to the Owner, Architect, and the Contractor, and upon~~Contractors. Upon completion of the Project, ~~the Construction Manager~~ shall deliver them to the Owner.

§ 3.3.2223 The Construction Manager shall arrange for the delivery, storage, protection and security of Owner-purchased materials, systems and equipment that are a part of the Project until such items are incorporated into the Work.

§ 3.3.2324 With the ~~Architect and the~~ Owner's maintenance personnel, the Construction Manager shall observe the ~~Contractor's or Multiple Prime~~ Contractors' final testing and start-up of utilities, operational systems and equipment and observe any commissioning as the Contract Documents may require.

§ 3.3.2425 When the Construction Manager considers each Contractor's Work or a designated portion thereof is substantially complete, the Construction Manager shall, jointly with ~~the~~that Contractor, prepare for the Architect a list of incomplete or unsatisfactory items and a schedule for their completion. The Construction Manager shall assist the Architect in conducting inspections to determine whether the Work or designated portion thereof is substantially complete.

§ 3.3.2526 When the Work ~~of all of the Contractors, or designated portion thereof,~~ is substantially complete, the Construction Manager shall prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion. The Construction Manager shall submit the executed Certificate to the Owner and ~~Contractor~~Contractors. The Construction Manager shall coordinate the correction and completion of the Work. Following issuance of a Certificate of Substantial Completion of the Work or a designated portion thereof, the Construction Manager shall ~~evaluate~~perform an inspection to confirm the completion of the Work of the ~~Contractor or Multiple Prime~~ Contractors and make recommendations to the Architect when ~~the Work of all of the Contractors is~~ ready for final inspection. The Construction Manager shall assist the Architect in conducting ~~the final inspections~~inspection.

§ 3.3.2627 The Construction Manager shall forward to the Owner, with a copy to the Architect, the following information received from the ~~Contractor or Multiple Prime~~ Contractors: (1) certificates of insurance ~~received from the Contractor or Multiple Prime Contractors;~~ (2) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (3) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (4) any other documentation required of the ~~Contractor~~Contractors under the Contract Documents, including warranties and similar submittals.

§ 3.3.2728 The Construction Manager shall ~~deliver all~~coordinate receipt, and delivery to the Owner, of other items provided by the Contractors, such as keys, manuals, ~~and record drawings and maintenance stocks to the Owner.~~ The Construction Manager shall forward to the Architect a final Project Application for Payment and Project Certificate for Payment, ~~or a final Application for Payment and final Certificate for Payment,~~ upon the ~~Contractor's~~Contractors' compliance with the requirements of the Contract Documents.

§ 3.3.2829 Duties, responsibilities and limitations of authority of the Construction Manager as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Construction Manager, Architect, ~~Contractor and Multiple Prime~~ Contractors. Consent shall not be unreasonably withheld.

§ 3.3.2930 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Construction Manager shall, without additional compensation, conduct a meeting with the Owner ~~and Architect~~ to review the facility operations and performance.

Article 4 Supplemental and Additional Services

§ 4.1 ~~Additional~~ Supplemental Services

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

(Designate the ~~Additional~~ Construction Manager's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Construction Manager or Owner shall provide in the second column of the table below. In the responsible for providing the third column indicate whether the service identified Supplemental Service. Insert a description is located of the Supplemental Services in Section 4.2 or in 1.2 below or attach the description of services as an attached exhibit. If in an exhibit, identify the exhibit.) to this Agreement.)

Note: The C132-2009 Table of Services in Section 4.1 has been reformatted in 2019 to remove the last column.

<u>Supplemental Services</u>	Responsibility (Construction Manager, Owner or Not Provided <u>not provided</u>)	Location of Service Description <i>(Section 4.2 below or in an exhibit attached to this document and identified below)</i>
§ 4.1.1.1 <u>Measured drawings</u>		
§ 4.1.1.2 <u>Tenant-related services</u>		
§ 4.1.1.3 <u>Commissioning</u>		
§ 4.1.1.4 <u>Development of a commissioning plan</u>		
§ 4.1.1.5 <u>Sustainable Project Services pursuant to Section 4.1.3</u>		
§ 4.1.1.6 <u>Furniture, furnishings and equipment delivery, and installation coordination</u>		
§ 4.1.1.7 <u>Furniture, furnishings and equipment procurement assistance</u>		
§ 4.1.1.8 <u>Assistance with site selection</u>		
§ 4.1.1.9 <u>Assistance with selection of the Architect</u>		
§ 4.1.1.10 <u>Furnish land survey</u>		
§ 4.1.1.11 <u>Furnish geotechnical engineering services</u>		
§ 4.1.1.12 <u>Provide insurance advice</u>		
§ 4.1.1.13 <u>Provide supplemental Project risk analysis and mitigation strategies</u>		
§ 4.1.1.14 <u>Stakeholder relationships management</u>		
§ 4.1.1.15 <u>Owner moving coordination</u>		
§ 4.1.1.16 <u>Coordination of Owner's Separate Contractors</u>		
§ 4.1.1.17 <u>Other Supplemental Services</u>		

§ 4.1.1 Measured drawings		
§ 4.1.2 Architectural interior design (B252 TM 2007)		
§ 4.1.3 Tenant related services		
§ 4.1.4 Commissioning (B211 TM 2007)		
§ 4.1.5 LEED [®] certification (B214 TM 2012)		
§ 4.1.6 Furniture, furnishings, and equipment design (B253 TM 2007)		

~~§ 4.1.2~~ Insert a Description of Supplemental Services

~~§ 4.1.2.1~~ A description of each Additional Supplemental Service designated identified in Section 4.1.1 as the Construction Manager's responsibility is provided below.

~~(Describe in detail the Construction Manager's Supplemental Services identified in Section 4.1.1 or, if not further described set forth in an exhibit, identify the exhibit.)~~

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

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

~~§ 4.1.3~~ If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E235TM-2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, attached to this document Agreement. The Owner shall compensate the Construction Manager as provided in Section 11.2.

~~§ 4.3-~~ § 4.2 Construction Manager's Additional Services

~~§ 4.2.1~~ The Construction Manager may provide Additional Services may be provided after execution of this Agreement, without invalidating this Agreement. Except for services required due to the fault of the Construction Manager, any Additional Services provided in accordance with this Section 4.3.2 shall entitle the Construction Manager to compensation pursuant to Section 11.3.

~~§ 4.3.1.2.2~~ Upon recognizing the need to perform the following Additional Services, the Construction Manager shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Construction Manager shall not proceed to provide the following services Additional Services until the Construction Manager receives the Owner's written authorization:

- ~~1~~ Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6; Services necessitated by sections 6.4 and 6.6 shall not be considered additional services;
- ~~2~~ Services necessitated by the enactment or revision of codes, laws or regulations or official interpretations after the date of this Agreement;
- ~~3~~ Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's other consultants or contractors;
- ~~4~~ Preparation of documentation for alternate bid or proposal requests proposed by the Owner;
- ~~4.5~~ Preparation for, and attendance at, a public presentation, meeting or hearing;
- ~~5.6~~ Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Construction Manager is party thereto;
- ~~6~~ Providing consultation; ~~7~~ Consultation concerning replacement of Work resulting from fire or other cause during construction and furnishing services required in connection with the replacement of such Work; or
- ~~7.8~~ Assistance to the Initial Decision Maker, if other than the Architect; or.

~~§ 4.2.3.2~~ To avoid delay in the Construction Phase, the Construction Manager shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Construction Manager's notice, the Owner ~~subsequently~~ determines that all or parts of ~~those~~ the services are not required, the Owner shall give prompt written notice to the Construction Manager, ~~and the of the Owner's determination. The Owner shall have no further obligation to compensate the Construction Manager for those~~ the services: provided prior to the Construction Manager's receipt of the Owner's notice:

- ~~.1~~ Services.1 Providing assistance to the Initial Decision Maker in evaluating an extensive number of Claims submitted by a Contractor or others in connection with the Work ~~when the Architect is serving as the Initial Decision Maker.~~
- ~~.2~~ To the extent the Construction Manager's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.
- ~~.3.2~~ Services required in an emergency to coordinate the activities of a Contractor or Multiple Prime Contractors in the event of risk of personal injury or serious property damage, consistent with Section 3.3.1315.

~~§ 4.3.3~~ § 4.2.4 Except for services required under Section 3.3.30, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work, or (2) the anticipated date of Substantial Completion identified in the Initial Information, whichever is earlier, shall be compensated as Additional Services to the extent the Construction Manager incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within () months of the date of this Agreement, through no fault of the Construction Manager, extension of the Construction Manager's services beyond that time shall be compensated as Additional Services.

Article 5 Owner's Responsibilities

Note: The last sentence of C132-2009 Section 5.1 has been relocated to Section 5.18 in C132-2019.

§ 5.1 Unless otherwise provided under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's program, other objectives, schedule, constraints and criteria, special equipment, systems, and site requirements. ~~Within 15 days after receipt of a written request from the Construction Manager, the Owner shall furnish the requested information as necessary and relevant for the Construction Manager to evaluate, give notice of, or enforce any lien rights, if any.~~

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

§ 5.3 The Owner acknowledges that accelerated, phased, or fast-track ~~scheduling~~ design and construction provides a benefit, but also carries with it the risk of additional costs. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B132-~~2009~~2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition. The Owner shall provide the Construction Manager with a copy of the executed scope of services in the agreement executed between the Owner and Architect, and any further modifications to the Architect's scope of services in the agreement.

§ 5.5 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions pertaining to documents the Construction Manager submits in a timely manner in

order to avoid unreasonable delay in the orderly and sequential progress of the Construction Manager's services.

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

§ 5.7 Unless provided by the Construction Manager, the Owner shall furnish services of geotechnical engineers, which may include ~~but are not limited to~~ test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

~~§ 5.8~~ § 5.8 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.9 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E235™-2019, Sustainable Projects Exhibit, Construction Manager as Adviser Edition, attached to this Agreement.

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

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

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

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

§ 5.14 The Owner reserves the right to perform construction and operations related to the Project with the Owner's own forces, and to award contracts in connection with the Project which are not part of the Construction Manager's responsibilities under this Agreement. The Construction Manager shall notify the Owner if any such independent action will interfere with the Construction Manager's ability to perform the Construction Manager's responsibilities under this Agreement. When performing construction or operations related to the Project, the Owner agrees to be subject to the same obligations and to have the same rights as the Contractors.

~~§ 5.13 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to~~ § 5.15 The Owner shall communicate with the Contractor/Contractors and the Construction Manager's consultants through the Construction Manager about matters arising out of or relating to the Contract Documents. The Owner and Construction Manager shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Construction Manager/Architect of the substance of any direct communications that may affect the Construction Manager's services. ~~between the Owner and the Construction Manager otherwise relating to the Project.~~ Communications by and with the Architect's consultants shall be through the Architect.

§ 5.16 Before executing the Contract/Contracts for Construction, the Owner shall coordinate the Construction Manager's duties and responsibilities set forth in the Contract/Contracts for Construction with the Construction

Manager's services set forth in this Agreement. The Owner shall provide the Construction Manager a copy of the executed agreements between the Owner and Contractors, including the General Conditions of the Contracts for Construction.

§ 5.17 The Owner shall provide the Construction Manager access to the Project site prior to commencement of the Work and shall obligate the ~~Contractor~~ Contractors to provide the Construction Manager access to the Work wherever it is in preparation or progress.

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

Article 6 Cost of the Work

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the ~~contractors'~~ Contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work includes the compensation of the Construction Manager and Construction Manager's Consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and ~~may~~ shall be adjusted throughout the Project as required under Sections 5.2 and 6.4. Evaluations of the Owner's budget, ~~preliminary estimates~~ for the Cost of the Work, and ~~detailed~~ the estimates of the Cost of the Work prepared by the Construction Manager, represent the Construction Manager's judgment as a person or entity familiar with the construction industry. It is recognized, however, that neither the Construction Manager nor the Owner has control over the cost of labor, materials; or equipment, ~~over, the~~ Contractors' methods of determining bid prices; ~~or over~~ competitive bidding, market, or negotiating conditions. Accordingly, the Construction Manager cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget proposed, established or approved by for the Owner Cost of the Work, or from any ~~cost estimate or~~ of the Cost of the Work, or evaluation, prepared or agreed to by the Construction Manager.

§ 6.3 If the Architect is providing ~~detailed~~ cost estimating services as an ~~Additional~~ Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the ~~Architect and the Construction Manager and the Architect shall work cooperatively together to conform~~ reconcile the cost estimates ~~to one another.~~

§ 6.4 ~~If, prior to the conclusion of the Design Development Phase,~~ If the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Construction Manager, in consultation with the Architect, shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Construction Manager and Architect in making such adjustments.

§ 6.5 If the Construction Manager's estimate of the Cost of the Work ~~at the conclusion of the Design Development Phase~~ exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- ~~.2 terminate in accordance with Section 9.5;~~
- .3 in consultation with the Construction Manager and Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- ~~.3~~ implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to revise the Project program, scope, or quality to reduce the Cost of the Work pursuant to Section 6.5.3, or if the bids or proposals received from the prospective Contractors, in the aggregate, exceed the Owner's budget for the Cost of the Work, and the Owner chooses to revise the Project program, scope, or quality to reduce the Cost of the Work, the Construction Manager shall cooperate with the Owner and Architect to develop the necessary revisions, update the cost estimate, and obtain additional bids. The Construction Manager will perform the services described in Sections 6.4 and 6.6 without additional compensation.

Article 7 Copyrights and Licenses

The Construction Manager and the Construction Manager's consultants, if any, shall not own or claim a copyright in the Instruments of Service. The Construction Manager, the Construction Manager's consultants, if any, and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. ~~If the Owner and Construction Manager intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.~~

Article 8 Claims and Disputes

§ 8.1 General

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

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Construction Manager waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A232-~~2009~~2019, General Conditions of the Contract for Construction. The Owner or the Construction Manager, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Construction Manager shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Construction Manager, its employees and its consultants in the performance of professional services under this Agreement. ~~The Construction Manager's obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend.~~ The Construction Manager's duty to indemnify the Owner under this ~~provision~~ Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement.

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

§ 8.2 Mediation

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

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

the arbitrator(s) and agree upon a schedule for later proceedings.

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

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

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

- Arbitration pursuant to Section 8.3 of this Agreement
- 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, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration

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

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

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

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

§ 8.3.4 Consolidation or Joinder

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

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

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

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

Article 9 Termination or Suspension

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

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

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

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

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

§ 9.6 ~~If the event of termination not the fault of Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Construction Manager, terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Construction Manager shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.~~

~~§ 9.7 Termination Expenses are in addition to compensation for the Construction Manager's services and include expenses directly incurred, and costs attributable to termination for which, including the costs attributable to the Construction Manager's termination of consultant agreements.~~

~~§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Construction Manager is not otherwise compensated, plus an amount for the Construction Manager's anticipated profit on the value of terminates this Agreement pursuant to Section 9.3, the services not performed by Owner shall pay to the Construction Manager, as set forth below.~~

~~§ 9.7.1 In the event of following termination for the Owner's convenience prior to commencement of construction, the Construction Manager shall be entitled to receive payment for services performed, costs incurred by reason of such termination and reasonable overhead and profit on Preconstruction services not completed during the Preconstruction Phase. fee:~~

~~§ 9.7.2 In the event of termination for the Owner's convenience after commencement of construction, the Construction Manager shall be entitled to receive payment for services performed and costs incurred by reason of such termination, along with reasonable overhead and profit on services not completed during the Construction Phase. (Set forth below the amount of any termination fee, or the method for determining any termination fee.)~~

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

Article 10 Miscellaneous Provisions

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

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232-~~2009~~2019, General Conditions of the Contract for Construction, except for purposes of this Agreement, the term "Work" shall include the work of all Contractors under the administration of the Construction Manager and the Architect.

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

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

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

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

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

§ 10.8 If the Construction Manager or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to ~~(1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information, as set forth in Section 10.8.1.~~ This Section 10.8 shall survive the termination of this Agreement.

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

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or

unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

Article 11 Compensation

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

§ 11.1.1 For Preconstruction Phase Services in Section 3.2:

(Insert amount of, or basis for, compensation, including stipulated sums, multiples or percentages.)

§ 11.1.2 For Construction Phase Services in Section 3.3:

(Insert amount of, or basis for, compensation, including stipulated sums, multiples or percentages.)

§ 11.2 For ~~Additional~~ the Construction Manager's Supplemental Services designated in Section 4.1.1, and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.32, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation.)

§ 11.4 Compensation for Supplemental and Additional Services of the Construction Manager's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Construction Manager plus percent (%), or as ~~otherwise stated below~~ follows:

(Insert amount of, or basis for computing, Construction Manager's consultants' compensation for Supplemental or Additional Services.)

§ 11.5 The hourly billing rates for services of the Construction Manager and the Construction Manager's consultants, ~~if any~~, are set forth below. The rates shall be adjusted in accordance with the Construction Manager's and Construction Manager's consultants' normal review practices.

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

Employee or Category

Rate (\$0.00)

§ 11.6 Compensation for Reimbursable Expenses

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

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project ~~Web~~ web sites, and extranets;
- .3 ~~Fees paid for securing approval of~~ Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Professional photography, and presentation materials requested by the Owner;
- .8 If required by the Owner, and with the Owner's prior written approval, the Construction Manager's

~~consultant's expense~~ consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits ~~if the Owner requests such insurance~~ in excess of that normally ~~carried~~ maintained by the Construction Manager's consultants;

- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.6.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Construction Manager and the Construction Manager's consultants plus percent (%) of the expenses incurred.

~~§ 11.7~~ § 11.7 Payments to the Construction Manager

~~§ 11.7~~ § 11.7 Construction Manager's Insurance. If the types and limits of coverage required in Section 2.8 are in addition to the types and limits the Construction Manager normally maintains, the Owner shall pay the Construction Manager for the additional costs incurred by the Construction Manager for the additional coverages as set forth below.

(Insert the additional coverages the Construction Manager is required to obtain in order to satisfy the requirements set forth in Section 2.8, and for which the Owner shall reimburse the Construction Manager.)

§ 11.8 Payments to the Construction Manager

§ 11.8.1 Initial Payment

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

§ 11.8.2 Progress Payments

§ 11.8.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid () days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

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

%

~~§ 11.7.38.2.2~~ § 11.8.2.2 The Owner shall not withhold amounts from the Construction Manager's compensation to impose a penalty or liquidated damages on the Construction Manager, or to offset sums requested by or paid to Contractors for the cost of changes in the Work, unless the Construction Manager agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

~~§ 11.7.48.2.3~~ § 11.8.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

Article 12 Special Terms and Conditions

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

Article 13 Scope of the Agreement

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the 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 the Owner and Construction Manager.

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

- .1 AIA Document C132™ ~~2009~~ 2019, Standard Form Agreement Between Owner and Construction Manager as Adviser
- .2 AIA Document E201™ ~~2007~~, E203™ ~~2013~~, Building Information Modeling and Digital Data

~~Protocol Exhibit, if completed, or~~ dated as indicated below:
~~(Insert the following date of the E203-2013 incorporated into this Agreement.)~~

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

~~AIA Document E202™ 2008, Building Information Modeling Protocol~~ E235™-2019,
Sustainable Projects Exhibit, if completed, or the following Construction Manager as Adviser Edition,
dated as indicated below:
(Insert the date of the E235-2019 incorporated into this agreement.)

Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified
in Section 4.1.2.)

- .4 Other documents:
~~(List other documents, if any, including additional scopes of service forming part of the Agreement.)~~

Signature

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

OWNER (Signature)

CONSTRUCTION MANAGER (Signature)

(Printed name and title)

(Printed name and title)
