

**NOTICE OF WORK MEETING OF THE CITY COUNCIL
OF THE CITY OF ST. GEORGE,
WASHINGTON COUNTY, UTAH**

Public Notice

Public notice is hereby given that the City Council of the City of St. George, Washington County, Utah, will hold a work meeting in the Administrative Conference at the St. George City Offices located at 175 East 200 North, St. George, Utah, on Thursday, July 10, 2025 commencing at 4:00 p.m.

The agenda for the meeting is as follows:

Call to Order
Invocation
Flag Salute

1. **Discussion to determine if property (346 West 600 North) is in public use per 1-13-4 of City Code**
2. **Adjourn and reconvene in a Regular Meeting of the City Council.**

**** THE COUNCIL WILL REMAIN IN THE
ADMINISTRATIVE CONFERENCE ROOM FOR
THE CITY COUNCIL REGULAR MEETING****

**NOTICE OF REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF ST. GEORGE,
WASHINGTON COUNTY, UTAH**

Public Notice

Public notice is hereby given that the City Council of the City of St. George, Washington County, Utah, will hold a regular meeting in the Administrative Conference Room at the St. George City Offices located at 175 East 200 North, St. George, Utah, on Thursday, July 10, 2025, commencing at approximately 4:15 p.m.

The agenda for the meeting is as follows:

1. **Consent Calendar.**
 - a. **Consider approval of the Construction Management/General Contractor (CMGC) contract with Hughes General Contractors for the Dixie Sun Bowl Renovation Project.**

BACKGROUND and RECOMMENDATION: On June 3rd, the Professional Services Agreement with Hughes General Contractors was approved for pre-construction services, not to exceed \$15,000. This agreement includes the preparation of a

comprehensive construction package that outlines all remaining materials required to complete the Dixie Sun Bowl remodel, in accordance with the CMGC (Construction Manager/General Contractor) contract. Staff recommends approval.

b. Consider approval to purchase a mobile LED Screen from Multimedia LED.

BACKGROUND and RECOMMENDATION: A formal bid was issued through Bonfire and officially closed on June 19th. Multimedia LED submitted the lowest bid, with a winning amount of \$133,841.50.

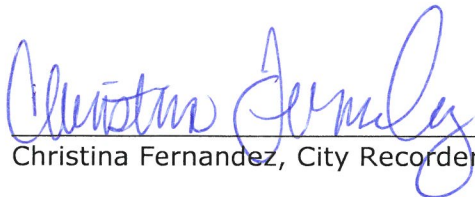
c. Consider approval of the First Amendment to the Development and Reimbursement Agreement between Property Reserve, Inc., Suburban Land Reserve, Inc, and the City of St. George.

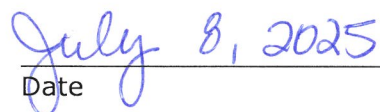
BACKGROUND and RECOMMENDATION: This amendment covers the installation of a new sewer line that will be installed in Merrill Road that was not included in the original development and reimbursement agreement that was approved by the City Council on March 7, 2024. Staff recommends approval.

d. Consider approval of a Reimbursement Agreement between Washington City and St. George City for the Merrill Road Sewer Line Improvement Agreement

BACKGROUND and RECOMMENDATION: The purpose of this agreement is to reimburse St. George for the cost to install a sewer line in Merrill Road. Staff recommends approval.

2. **Appointments to Boards and Commissions of the City.**
3. **Reports and updates from Mayor, Councilmembers, and City Manager.**
4. **Request a closed meeting to discuss litigation, security, property acquisition or sale or the character and professional competence or physical or mental health of an individual.**


Christina Fernandez, City Recorder


Date

REASONABLE ACCOMMODATION: The City of St. George will make efforts to provide reasonable accommodations to disabled members of the public in accessing City programs. Please contact the City Human Resources Office, 627-4674, at least 24 hours in advance if you have special needs.



Agenda Date: 07/10/2025

Agenda Item Number: 1a

Subject:

Consider approval of the Construction Management/General Contractor (CMGC) contract with Hughes General Contractors for the Dixie Sun Bowl Renovation Project.

Item at-a-glance:

Staff Contact: Shane Moore
Applicant Name: City of St. George
Reference Number: N/A
Address/Location:
150 South 400 East

Item History (background/project status/public process):

Consider award of the contract for Construction Management/General Contractor (CMGC) for the Dixie Sun Bowl Renovation Project. The initial contract will be in the amount of \$15,000 to encompass preconstruction services. This award will continue the work started under the professional service agreement approved by the City Council on June 3rd. Staff anticipate bringing forward future amendments to the contract after a Guaranteed Maximum Price (GMP) is provided by the contractor.

Staff Narrative (need/purpose):

The Dixie Sunbowl is an important venue that has hosted a multitude of events over the years, including the Dixie Roundup Rodeo which is in its 91st year. However, the facility does not have the best layout for viewing events and the seating is uncomfortable. The City would like to improve the facility by providing better viewing opportunities, more distance between rows for spectator comfort, and additional seating. Other improvements will include a plaza space, additional restrooms, large screens, and a new announcers booth. The City already has an architect hired to provide project construction documents, but it is desired to hire a contractor to aid in the design process which duties include creating a budget conscious design, cost estimating, scheduling, providing constructability expertise, providing feedback on construction documents, bid marketing (subcontractors), bid review, and Guaranteed Maximum Price (GMP) development. This approach offers several advantages which includes early risk identification, cost savings, and potentially faster completion times. Staff recommends approval of the CMGC contract with Hughes General Contractors to oversee and manage the construction phase of the Dixie Sun Bowl Renovation Project. This contract will facilitate the completion of all remaining construction work, including procurement of materials and coordination of subcontractors, in alignment with the scope established during the pre-construction phase.

Name of Legal Dept approver: Daniel Baldwin

Budget Impact:

Cost for the agenda item: \$15,000
Amount approved in current FY budget for item: \$8,900,000
If not approved in current FY budget or exceeds the budgeted amount, please explain funding source:
N/A
Description of funding source:
G.O. Bond, RAP Tax, and Grants.

Recommendation (Include any conditions):

Staff recommends approval

23. **RESERVED LEGISLATIVE POWERS.** Nothing in this Agreement shall limit the future exercise of the police power by CITY in enacting zoning, subdivision, development, transportation, environment, open space, and related land use plans, policies, ordinances, and regulations after the date of this Agreement, but which shall not be retroactively applied to or modify this Agreement.
24. **SUCCESSORS AND ASSIGNS.** CONSULTANT shall not assign, sublet, sell, transfer, or otherwise dispose of any interest in this Agreement without assigning the rights and the responsibilities under this Agreement and without the prior written approval of CITY. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, but shall not inure to the benefit of any third party or other person.
25. **NO JOINT VENTURE, PARTNERSHIP OR THIRD-PARTY RIGHTS.** It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture, or other arrangement between the parties. No term or provision of this Agreement is intended to or shall, be for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.
26. **INTEGRATION.** This Agreement contains the entire Agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understanding of whatever kind or nature between CITY and CONSULTANT and supersedes and replaces all terms and conditions of any prior agreements, arrangements, negotiations, or representations, written or oral, with respect to this PROJECT.
27. **SEVERABILITY.** If any part or provision of this Agreement shall be determined to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Agreement except that specific provision determined to be unconstitutional, invalid or unenforceable. If any condition, covenant or other provision of this Agreement shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
28. **CONSTRUCTION.** Each of the parties hereto has had the opportunity to review this agreement with counsel of their choosing and the rule of contracts requiring interpretation of a contract against the party drafting the same is hereby waived and shall not apply in interpreting this agreement.
29. **SURVIVAL.** It is expressly agreed that the terms, covenants, and conditions of this Agreement shall survive any legal act or conveyance required under this Agreement.
30. **HEADINGS.** The section and other headings in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.
31. **COUNTERPARTS.** This Agreement may be signed in counterparts and each such counterpart shall constitute an original document. All such counterparts, taken together, shall constitute one

and the same instrument. Any signature on this Agreement transmitted by facsimile, electronically in PDF format, or by other generally accepted means of conveying digital signatures (e.g. DocuSign) shall be deemed an original signature for all purposes and the exchange of copies of this Agreement and of signature pages by any such transmission, or by a combination of such means, shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original for all purposes.

32. **AUTHORITY OF PARTIES.** The parties executing this Agreement hereby warrant and represent that they are duly authorized to do so in the capacity stated and that this Agreement constitutes a valid and binding Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the CITY and CONSULTANT effective from the day and year first written above.

CITY OF ST. GEORGE

HUGHES GENERAL CONTRACTORS, INC.

Michele Randall, Mayor

Gene Madsen, Vice President

ATTEST:

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Christina Fernandez, City Recorder

Daniel Baldwin, Assistant City Attorney

EXHIBIT A
SCOPE OF SERVICES

This Exhibit A Scope of Services is attached to, and fully incorporated into, the Professional Services Agreement by and between the City of St. George (the “City”) and the following individual or entity (“Contractor”) to the extent that it does not conflict with any provisions in this Agreement. If there are any conflicts between the Agreement and the Scope of Services, the terms of the Agreement apply.:

Name: Hughes General Contractors, Inc.

Address: 62 West Industrial Drive, Washington, UT 84780

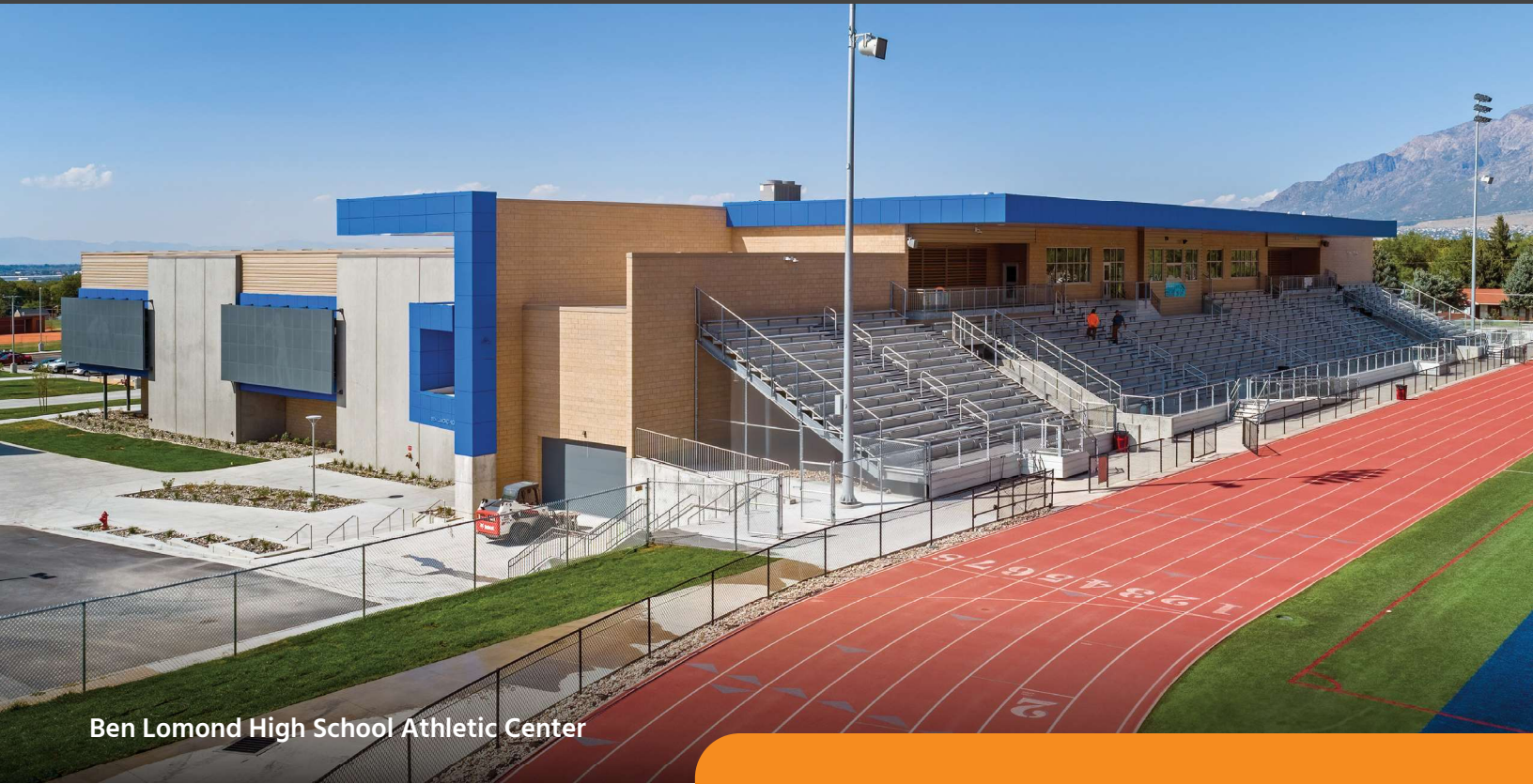
Email: gene@hughesgc.com Phone Number: 435-628-0047

Scope of Services and/or Deliverables by Contractor:

- For pre-construction services as specified in City of St. George RFP 25-217, which is
- incorporated by reference herein.
-
-

Compensation: City shall pay Contractor the following sum:

- \$15,000
-



Ben Lomond High School Athletic Center

PRE-CONSTRUCTION SERVICES MANAGEMENT PLAN

With decades of experience, we transform challenges into innovative strategies, delivering exceptional results.

We leverage time-tested processes to ensure every pre-construction phase is precise, proactive, and value-driven. Through thorough site evaluations, risk identification, and real-time cost feedback, we prepare for challenges and deliver innovative and effective solutions. Collaboration and meticulous planning align project goals with stakeholder expectations, fostering trust and efficiency for seamless project success.

At Hughes, pre-construction is where project success begins. We don't just manage the process; we lead it with unmatched expertise and dedication. Every decision, every collaboration, and every detail are aimed at setting the stage for your vision to come to life.

A Smarter Start for the Dixie Sunbowl Renovation

At Hughes, we believe in building smarter from day one—saving time, reducing risk, and maximizing value for the City of St. George.

Our strategy includes establishing a clear, budget-conscious base design while offering flexibility through carefully structured Alternates—individual features or enhancements that are separately priced in the bidding process. This empowers you to:

- Prioritize funding where it matters most
- Review real, competitive costs for each option
- Make informed decisions based on actual numbers — not estimates
- Avoid redesigns and unexpected budget challenges

As the project progresses, we'll continue to refine the budget and structure Alternates in ways that attract the best pricing from subcontractors and suppliers—delivering greater value at every step.

Sunbowl Budget Approaches Comparison

Hughes Smart Strategy	Traditional Option 1	Traditional Option 2
Base scope + Alternates	Design first, hope later	Overly conservative design
Flexibility to choose upgrades based on real bids	Risk of going over budget and needing costly redesign	Missed opportunity to add features or enhancements
Budget updates throughout design	Wasted time and rework	Limits project potential
Saves ~ 3 weeks upfront + maximizes value	Delays in schedule	Frustration with scope limitations

Cost Estimating

The Hughes team consistently delivers **Guaranteed Maximum Price (GMP) amounts within 2% of budget estimates—a level of accuracy unmatched by competitors.**

Our cost management philosophy is rooted in precision and discipline, ensuring design-phase estimates align closely with the final GMP. By utilizing proven processes and innovative tools, we provide reliable cost projections and maintain alignment with the owner’s budget. Key strategies we will employ for the Dixie Sunbowl Renovation project include:

- **Detailed, Quantity-Based Estimates:** Unlike generalized square-foot cost methods, we analyze material quantities and project-specific scopes to minimize uncertainties and offer actionable financial data.
- **Ensuring the Design Matches the Budget:** By applying **Target Value Delivery (TVD)** principles, we maximize every dollar to align project goals with expectations. Identifying challenges early and offering solutions prevents cost overruns. Collaborating closely with the owner, design team, and other project stakeholders, we manage scope, develop cost-effective alternatives, and provide advanced cost tracking.
- **Early Subcontractor Involvement:** Engage trusted subcontractors early to obtain estimates and input during design, ensuring efficient resource use, addressing challenges, and uncovering cost savings strategies.
- **Real-Time Pricing Feedback:** Leverage technology such as **Togal.AI** and model-based take-offs to provide immediate, accurate pricing insights and informed feedback.
- **Transparency and Collaboration:** Open-book policies, regular progress updates, and direct collaboration with all stakeholders ensure every decision reflects shared goals and priorities.



Ben Lomond High School Athletic Center

Scheduling

Our scheduling approach blends collaboration, precision, and adaptability to create a reliable road map. With decades of experience delivering similar projects, we have developed and refined scheduling methodologies that consistently achieve on-time project delivery. The goal is to establish a robust schedule as the foundation for accountability, aligning our team and subcontractors as we transition into construction. Transparent scheduling supports decision-making, mitigates risks, and maintains momentum, leveraging our unique expertise in managing complex timelines and coordination challenges specific to projects like this.

During pre-construction, our schedule development process includes:

- **Detailed Schedule:** Evaluate how design, procurement, and construction sequencing minimize delays and create an achievable timeline. Identify key milestones and critical activities.
- **Collaboration:** Regular communication with the owner, architect, and subcontractors to inform all parties and enable proactive issue resolution.
- **Advanced Scheduling Tools:** Use advanced scheduling (**Phoenix CPM**) and analytics (**SmartPM**) software to enhance accuracy and reliability. These tools track milestones, evaluate performance, and detect issues early, ensuring a transparent schedule.

Collaboration & Teamwork

Mutual respect and clear communication are the foundation for collaboration and teamwork and are essential to a successful project. Past experience and training of team members can provide a fresh look at a situation or issue; the team can then collectively find the best solution.

If an issue arises during the project, we plan to promptly consult with subcontractors for understanding and options, to draw from our past experience in similar situations, and to present the issues to the city and MRW.

Cost and Constructability Reviews

By combining real-time feedback with formal milestone reviews and estimates, we ensure the owner and design team receive actionable insights that enhance the project's efficiency and feasibility, maximize the budget, and maintain alignment with the project's goals. We accomplish this in two ways:

- **Immediate Input:** During design meetings and conversations constructability challenges are addressed as they arise; helping to guide decisions in real time. We will suggest potential alternatives that optimize both cost and constructability without sacrificing the project's overall vision.
- **Formal Feedback at Milestones:** At major design milestones (SD, DD, 90% CD, and 100% CD), we deliver detailed reviews of design and construction documents alongside reliable cost estimates. To ensure mutual accountability, we utilize a collaborative, cloud-based information management system that tracks feedback, monitors progress, and provides a platform for management of outcomes. These reviews identify conflicts, inefficiencies, and opportunities for improvement, ensuring alignment of constructability and budgetary constraints.

Transparency

Transparency is at the core of our approach, ensuring that all stakeholders are fully informed throughout the pre-construction and construction phases. We prioritize open communication by providing access to critical project data such as cost estimates, schedules, and progress updates. Key strategies include:

- **Open-Book Policy**
- **Collaborative Decision-Making**
- **Regular Progress Updates**
- **Clear Communication Channels**

This transparent approach empowers stakeholders to make informed decisions, manage risks proactively, and address issues collaboratively. It lays the groundwork for a successful project, fostering positive, long-term relationships with all parties involved.

Bid Marketing

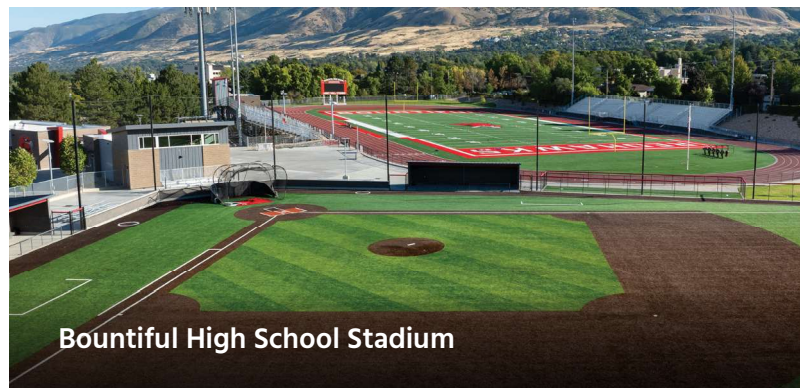
Effective marketing and bidding ensure high-quality subcontractors while keeping the project on schedule and within budget. Our strategic approach targets experienced trade partners capable of exceptional results. Every team member utilizes company and personal subcontractor relationships. This proactive outreach begins on day 1 and continues through the final bid package. Hughes' extensive network of skilled subcontractors specializing in stadium construction ensures quality, efficiency, reliability, and competitive bidding.

- **Dedicated Subcontractor Communication Specialist:** A full-time team member manages all subcontractor communication, including:
 - **SmartBid:** Ensures project documents are accessible.
 - **Bid Tracking:** Monitors subcontractor participation and engages undecided bidders.
 - **Bid Organization:** Streamlines submissions for the estimating team.

Bid Review, GMP Development, & Subcontractor Selection

As part of the **Hughes Smart Strategy**, we thoroughly evaluate all bids to confirm alignment with the project's scope, schedule, and quality requirements. Our process identifies the most qualified partners based on cost, experience, reliability, and performance, ensuring we select the best local subcontractors who share our commitment to excellence.

As we develop the GMP, we collaborate with the owner and design team to finalize project costs. We provide detailed cost breakdowns and bid tabulations, accounting for scope, contingencies, and allowances. This transparent, methodical approach ensures all financial elements are understood and aligned with project goals, creating a strong foundation for a successful construction phase.



Bountiful High School Stadium



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/20/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER HUB International Insurance Services Inc. 1100 E 6600 S, Ste 400 Salt Lake City UT 84121	CONTACT NAME: Lori Watson, AU, CISR PHONE (A/C. No. Ext): 801-288-1600 FAX (A/C. No.): 801-288-1944 E-MAIL ADDRESS: lori.watson@hubinternational.com														
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Charter Oak Fire Insurance Company</td> <td>25615</td> </tr> <tr> <td>INSURER B : Houston Casualty Company</td> <td>42374</td> </tr> <tr> <td>INSURER C : The Phoenix Insurance Company</td> <td>25623</td> </tr> <tr> <td>INSURER D : Travelers Property Casualty Company of America</td> <td>25674</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Charter Oak Fire Insurance Company	25615	INSURER B : Houston Casualty Company	42374	INSURER C : The Phoenix Insurance Company	25623	INSURER D : Travelers Property Casualty Company of America	25674	INSURER E :		INSURER F :
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INSURED Hughes General Contractors, Inc P O Box 540700 North Salt Lake UT 84054-0700	HUGHGEN-01														

COVERAGES

CERTIFICATE NUMBER: 1460072351

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liab GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	Y	CO-0K66227A	10/1/2024	10/1/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			810-6N341803	10/1/2024	10/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP-8L413033	10/1/2024	10/1/2025	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Professional Liab. Claims Made			HCC 25 71530	4/1/2025	4/1/2026	Per Occurrence \$2,000,000 Aggregate Limit \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: Dixie Sunbowl Renovation at 150 S 400 East, St George, UT 87440

Certificate holder is Additional Insured with Waiver of Subrogation applying, as required by written contract, per attached forms. Notice of Cancellation is provided as required by written contract, per attached forms.

CERTIFICATE HOLDER**CANCELLATION**

City of St George
 175 E 200 North
 St George UT 84770

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

d. Primary And Non-Contributory Insurance If Required By Written Contract

If you specifically agree in a written contract or agreement that the insurance afforded to an insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such insured which covers such insured as a named insured, and we will not share with that other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal and advertising injury" for which coverage is sought is caused by an offense that is committed;

subsequent to the signing of that contract or agreement by you.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

- 1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

XTEND ENDORSEMENT FOR CONTRACTORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|--|---|
| <p>A. Who Is An Insured – Unnamed Subsidiaries</p> <p>B. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations</p> | <p>C. Incidental Medical Malpractice</p> <p>D. Blanket Waiver Of Subrogation</p> <p>E. Contractual Liability – Railroads</p> <p>F. Damage To Premises Rented To You</p> |
|--|---|

PROVISIONS

A. WHO IS AN INSURED – UNNAMED SUBSIDIARIES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership, joint venture or limited liability company, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and
- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. An organization other than a partnership, joint venture or limited liability company; or

- b. A trust;

as indicated in its name or the documents that govern its structure.

B. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

C. INCIDENTAL MEDICAL MALPRACTICE

1. The following replaces Paragraph **b.** of the definition of "occurrence" in the **DEFINITIONS** Section:

b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

2. The following replaces the last paragraph of Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED**:

Unless you are in the business or occupation of providing professional health care services, Paragraphs **(1)(a), (b), (c)** and **(d)** above do not apply to "bodily injury" arising out of providing or failing to provide:

(a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician or paramedic; or

(b) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

3. The following replaces the last sentence of Paragraph **5.** of **SECTION III – LIMITS OF INSURANCE**:

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

4. The following exclusion is added to Paragraph **2.**, **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

Sale Of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the violation of a penal statute or ordinance relating to the sale of

pharmaceuticals committed by, or with the knowledge or consent of, the insured.

5. The following is added to the **DEFINITIONS** Section:

"Incidental medical services" means:

a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or

b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

6. The following is added to Paragraph **4.b.**, **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph **2.a.(1)** of Section II – Who Is An Insured.



D. BLANKET WAIVER OF SUBROGATION

The following is added to Paragraph **8.**, **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

a. "Bodily injury" or "property damage" that occurs; or

b. "Personal and advertising injury" caused by an offense that is committed;

subsequent to the execution of the contract or agreement.

E. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph **c.** of the definition of "insured contract" in the **DEFINITIONS** Section:

c. Any easement or license agreement;

2. Paragraph **f.(1)** of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

F. DAMAGE TO PREMISES RENTED TO YOU

The following replaces the definition of "premises damage" in the **DEFINITIONS** Section:

"Premises damage" means "property damage" to:

- a. Any premises while rented to you or temporarily occupied by you with permission of the owner; or
- b. The contents of any premises while such premises is rented to you, if you rent such premises for a period of seven or fewer consecutive days.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED

(Includes Products-Completed Operations If Required By Contract)

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

PROVISIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that you agree in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only:

- a. With respect to liability for "bodily injury" or "property damage" that occurs, or for "personal injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement and while that part of the contract or agreement is in effect; and
- b. If, and only to the extent that, such injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the written contract or agreement applies. Such person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is subject to the following provisions:

- a. If the Limits of Insurance of this Coverage Part shown in the Declarations exceed the minimum limits required by the written contract or agreement, the insurance provided to the additional insured will be limited to such minimum required limits. For the purposes of determining whether this limitation applies, the minimum limits required by the written contract or agreement will be considered to include the minimum limits of any Umbrella or Excess liability coverage required for the additional insured by that written contract or agreement. This provision will not increase the limits of insurance described in Section III – Limits Of Insurance.
- b. The insurance provided to such additional insured does not apply to:

- (1) Any "bodily injury", "property damage" or "personal injury" arising out of the providing, or failure to provide, any professional architectural, engineering or surveying services, including:

- (a) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and

- (b) Supervisory, inspection, architectural or engineering activities.

- (2) Any "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the written contract or agreement specifically requires you to provide such coverage for that additional insured during the policy period.

- c. The additional insured must comply with the following duties:

- (1) Give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

- (a) How, when and where the "occurrence" or offense took place;

- (b) The names and addresses of any injured persons and witnesses; and

- (c) The nature and location of any injury or damage arising out of the "occurrence" or offense.

- (2) If a claim is made or "suit" is brought against the additional insured:

COMMERCIAL GENERAL LIABILITY

- (a) Immediately record the specifics of the claim or "suit" and the date received; and
 - (b) Notify us as soon as practicable and see to it that we receive written notice of the claim or "suit" as soon as practicable.
- (3) Immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- (4) Tender the defense and indemnity of any claim or "suit" to any provider of other insurance which would cover such additional insured for a loss we cover. However, this condition does not affect whether the insurance provided to such additional insured is primary to other insurance available to such additional insured which covers that person or organization as a named insured as described in Paragraph 4., Other Insurance, of Section IV – Commercial General Liability Conditions.

POLICY NUMBER:

ISSUE DATE:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED ENTITY – NOTICE OF CANCELLATION PROVIDED BY US

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

SCHEDULE

CANCELLATION: **Number of Days Notice of Cancellation:** 30

PERSON OR

ORGANIZATION: ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN CONTRACT THAT NOTICE OF CANCELLATION OF THIS POLICY WILL BE GIVEN, BUT ONLY IF:
1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING THE NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION AFTER THE FIRST NAMED INSURED RECEIVES NOTICE FROM US OF THE CANCELLATION OF THIS POLICY, AND
2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE BEGINNING OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THE SCHEDULE.

ADDRESS: THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTEN REQUEST FROM YOU TO US.

PROVISIONS:

If we cancel this policy for any statutorily permitted reason other than nonpayment of premium, and a number of days is shown for cancellation in the schedule above, we will mail notice of cancellation to the person or organization shown in the schedule

above. We will mail such notice to the address shown in the schedule above at least the number of days shown for cancellation in the schedule above before the effective date of cancellation.

DRAFT AIA® Document A133® - 2019

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

AGREEMENT made as of the « tenth » day of « July » in the year « 2025 »
(In words, indicate day, month, and year.)

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

« City of St. George »« »
« 175 East 200 North »
« St. George, UT 84770 »
« Phone: 435-627-4000 »

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

« Hughes General Contractors, Inc. »« »
« 62 West Industrial Drive »
« Washington, UT 84780 »
« Phone: 435-628-0049 »
UT DOPL #5032616-5501

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

« Dixie Sunbowl Renovation (25-217) »
« 150 South 400 East »
« St. George, UT 84770 »

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

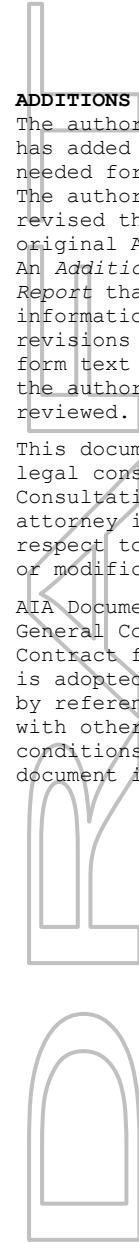
« MRW Design Associates, Inc. »« »
« 73 East 100 South »
« St. George, UT 84770 »
« Phone: 435-628-2377 »

The Owner and Construction Manager agree as follows.

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

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

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



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ARTICLE 1 INITIAL INFORMATION

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

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

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

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

« The PROJECT includes demolition of most of the existing concrete seating, modify existing livestock pens layout, modify existing livestock transfer channel, construct new livestock transfer tunnel, new bleacher seating on the lower bowl, new grandstand bleacher seating on upper bowl, new restrooms, new stair towers, new announcer's booth, and new courtyard/plaza space. Bleachers will provide approximately 7,134 seats. The PROJECT is to provide a better user experience for those attending events at the facility. This includes better seating, additional seating, improved viewing opportunities, additional restroom facilities, improved access, plaza space, and landscaping. »

§ 1.1.2 The Project's physical characteristics:

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

« The PROJECT is to renovate the existing Dixie Sunbowl which has been the venue for the Dixie Roundup Rodeo and other events for decades. The project is about 4 acres in size and is located in the downtown area of the City. A

geotechnical report will be completed prior to the Construction Phase of the PROJECT. Utilities are already at the site.
»

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

« To be determined by Owner during the Preconstruction Phase. »

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

.1 Design phase milestone dates, if any:

« July 2025 through September 2025 »

.2 Construction commencement date:

« September 22, 2025 »

.3 Substantial Completion date or dates:

« August 14, 2026 »

.4 Other milestone dates:

« »

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

« Bleacher acquisition. »

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

« To be determined by Owner based upon budget and scheduling constraints. »

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

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

« None identified at this time. »

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

« Mark Goble »
« 390 North 3050 East »
« St. George, UT 84790 »
« Phone: 435-703-0686 »
« mark.goble@sgcityutah.gov »
« »

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

« Not applicable. »

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

.1 Geotechnical Engineer:

« Landmark Testing & Engineering »« »
« 795 East Factory Drive »
« St. George, UT 84790 »
« Phone: 435-986-0566 »
« landmarktesting@gmail.com »

.2 Civil Engineer:

« MRW Design Associates, Inc. »« »
« 73 East 100 South »
« St. George, UT 84770 »
« Phone: 435-628-2377 »
« »

.3 Other, if any:

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

« To be determined by Owner on an as needed basis. »

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

« Jeff Mathis »
« MRW Design Associates, Inc. »
« 73 East 100 South »
« St. George, UT 84770 »
« Phone: 435-628-2377 »
« jm@mrwdesign.com »

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

« Gene Madsen »
« Hughes General Contractors, Inc. »
« 62 West Industrial Drive »
« Washington, UT 84780 »
« Phone: 435-628-0047 »
« gene@hughesgc.com »

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

« Organizational Chart of all major participants of Construction Manager's proposed Project Team. Resumes of principals, project managers, project engineers, cost estimators, quality control managers, superintendents, and other primary representatives who will be directly involved in the overall PROJECT.
»

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

« Encourage and include suppliers and sub-contractors based in the Greater St. George Area. At Owner's discretion, Construction Manager will seek a minimum of three sub-bids (from subcontractors and/or suppliers acceptable to the OWNER) on all scopes of Work which cost more than \$5,000.00, and the OWNER will have "open book" access to all bids received and all costs which the selected bidder(s) intends to bill to OWNER »

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

« Owner's Request For Proposals. »

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

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party, unless mutually agreed to by both parties.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

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

§ 2.2 Relationship of the Parties

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

§ 2.3 General Conditions

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

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

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase

responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

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

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

§ 3.1.3 Consultation

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

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

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

§ 3.1.4 Project Schedule

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

§ 3.1.5 Phased Construction

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

§ 3.1.6 Cost Estimates

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

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

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

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

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

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

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

§ 3.1.11 Subcontractors and Suppliers

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

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

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

§ 3.1.12 Procurement

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

§ 3.1.13 Compliance with Laws

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

§ 3.1.14 Other Preconstruction Services

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

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

§ 3.2 Guaranteed Maximum Price Proposal

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

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

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

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

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

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

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

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

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

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

§ 3.3 Construction Phase

§ 3.3.1 General

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

§ 3.3.1.2 The Construction Phase shall commence three (3) business days after the Owner’s execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

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

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

§ 3.3.2.3 Monthly Report

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

§ 3.3.2.4 Daily Logs

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

§ 3.3.2.5 Cost Control

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

ARTICLE 4 OWNER’S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

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

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

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

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner’s control and relevant to the Construction Manager’s performance of the Work

with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

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

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

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

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

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

§ 4.2 Owner's Designated Representative

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

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

§ 4.3 Architect

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

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

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

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

« \$15,000.00 »

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

« Not applicable. »

Individual or Position

Rate

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

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within «six» («6») months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

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

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid «thirty» («30») 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.)

«1.5» % «per month.»

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

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

§ 6.1.2 The Construction Manager's Fee:

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

«General Conditions Fee: \$543,300.00

Fee for Overhead as a percentage of the Cost of Work: 1.50%

Fee for Profit as a percentage of the Cost of Work: 1.50%

»

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

« Maximum fee for Change Orders

- Performed by the Construction Manager: 3% Maximum
- Performed by sub-contractors: 10% Maximum
- Material changes only: 5% Maximum

»

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

« »

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed «one hundred three» percent («103» %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

« Liquidated Damages will be imposed at \$1,500.00 per calendar day beyond the Substantial Completion date.
»

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

« 100% of the unused Construction Manager's contingency will be returned to the OWNER. »

§ 6.2 Guaranteed Maximum Price

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

§ 6.3 Changes in the Work

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

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

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

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

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

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

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

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

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

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

§ 7.2 Labor Costs

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

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

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

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

« Not applicable. »

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

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

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

§ 7.3 Subcontract Costs

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

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

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

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

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

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

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

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

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

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

§ 7.6 Miscellaneous Costs

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

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

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

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

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

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

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

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

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

§ 7.6.7 Costs of document reproductions and delivery charges.

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

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

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

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

§ 7.7 Other Costs and Emergencies

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

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

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

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

§ 7.8 Related Party Transactions

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

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

§ 7.9 Costs Not To Be Reimbursed

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

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

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

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

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

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

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

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

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

ARTICLE 10 ACCOUNTING RECORDS

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

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

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

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

« Not applicable. »

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the «5th» day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the «30th» day of the «same» month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than « thirty » (« 30 ») days after the Architect receives the Application for Payment.

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

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

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

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

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

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

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

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

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

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

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;

- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

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

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

« 5% »

§ 11.1.8.1.1 The following items are not subject to retainage:

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

« Construction Manager's allowable bond and insurance Costs. »

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

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

« Not applicable. »

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

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

« Not applicable. »

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

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

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

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

§ 11.2 Final Payment

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

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

- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

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

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

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

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

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

« Not applicable. »

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

§ 11.3 Interest

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

(Insert rate of interest agreed upon, if any.)

«1.5%» % «per month.»

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

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

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

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

«To be determined on an as needed basis.»

« »

« »

« »

§ 12.2 Binding Dispute Resolution

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

(Check the appropriate box.)

Arbitration pursuant to Article 15 of AIA Document A201–2017

Litigation in a court of competent jurisdiction

Other: (Specify)

« »

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

ARTICLE 13 TERMINATION OR SUSPENSION

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

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

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

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

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

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

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

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

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

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

§ 13.2.1 Termination

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

§ 13.2.2 Termination by the Owner for Cause

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

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

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

§ 13.2.3 Termination by the Owner for Convenience

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

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

«If the Owner exercises its rights to terminate this Agreement for its convenience prior to the commencement of the Construction Phase, then Construction Manager shall only be entitled to payment of its Preconstruction Fee. However, if Owner’s termination for convenience occurs after the commencement of the Construction Phase, then Construction Manager shall only be entitled to the actual Cost of the Work provided prior to the Owner’s termination for convenience, plus a demobilization fee of \$10,000. Construction Manager shall not be entitled to payment for any unperformed Work or unrealized profit.»

§ 13.3 Suspension

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

ARTICLE 14 MISCELLANEOUS PROVISIONS

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

§ 14.2 Successors and Assigns

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

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

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

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

§ 14.3.1.1 Commercial General Liability with policy limits of not less than « one million » (\$ « 1,000,000.00 ») for each occurrence and « Four million » (\$ « 4,000,000.00 ») in the aggregate for bodily injury and property damage.

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

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

§ 14.3.1.4 Workers’ Compensation at statutory limits and Employers Liability with policy limits not less than « one million » (\$ « 1,000,000.00 ») each accident, « one million » (\$ « 1,000,000.00 ») each employee, and « one million » (\$ « 1,000,000.00 ») policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than « three million » (\$ « 3,000,000.00 ») per claim and «three million» (\$ «3,000,000.00») in the aggregate.

§ 14.3.1.6 Other Insurance

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage	Limits
Performance Bond	100% of the contract value
Payment Bond	100% of the contract value

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

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

§ 14.3.2 Construction Phase

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

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

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

«Only if agreed to by the Parties prior to commencement of the Construction Phase.»

§ 14.5 Other provisions:

«To be determined.»

ARTICLE 15 SCOPE OF THE AGREEMENT

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

§ 15.2 The following documents comprise the Agreement:

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

« »

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

[« »] AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement.)

«Construction Manager's Fee Proposal submitted in response to Owner's RFP »

[« »] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

- .7 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

« »

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

OWNER *(Signature)*

« Mayor Michele Randall » « Mayor »
(Printed name and title)

CONSTRUCTION MANAGER *(Signature)*

« Gene Madsen » « Vice President »
(Printed name and title)

Attest:

 Christina Fernandez, City Recorder

Approved as to Form:

 Daniel Baldwin, Assistant City Attorney

DRAFT AIA® Document A133® – 2019

Exhibit A

Guaranteed Maximum Price Amendment

This Amendment dated the « » day of « » in the year « », is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the « » day of « » in the year « » (the “Agreement”)
(In words, indicate day, month, and year.)

for the following **PROJECT:**
(Name and address or location)

« »
« »

THE OWNER:
(Name, legal status, and address)

« »« »
« »

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

« »« »
« »

TABLE OF ARTICLES

- A.1 GUARANTEED MAXIMUM PRICE
- A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- A.4 CONSTRUCTION MANAGER’S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

ARTICLE A.1 GUARANTEED MAXIMUM PRICE

§ A.1.1 Guaranteed Maximum Price

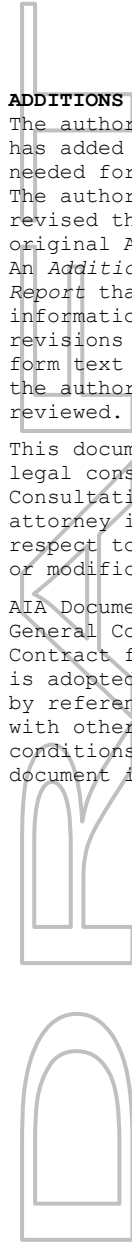
Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager’s Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed « » (\$ « »), subject to additions and deductions by Change Order as provided in the Contract Documents.

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

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

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



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§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager's contingency; alternates; the Construction Manager's Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.
(Provide itemized statement below or reference an attachment.)

<< >>

§ A.1.1.3 The Construction Manager's Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 The method of adjustment of the Construction Manager's Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 Alternates

§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ A.1.1.6 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

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

ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ A.2.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

[<< >>] The date of execution of this Amendment.

[<< >>] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

<< >>

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of execution of this Amendment.

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

§ A.2.3 Substantial Completion

§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[<< >>] Not later than << >> (<< >>) calendar days from the date of commencement of the Work.

[« »] By the following date: « »

§ A.2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
[REDACTED]	[REDACTED]

§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

§ A.3.1.2 The following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

« »

Section	Title	Date	Pages
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

§ A.3.1.3 The following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

« »

Number	Title	Date
[REDACTED]	[REDACTED]	[REDACTED]

§ A.3.1.4 The Sustainability Plan, if any:
(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Construction Manager's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages
[REDACTED]	[REDACTED]	[REDACTED]

Other identifying information:

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

Item	Price
[REDACTED]	[REDACTED]

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:

(Identify each assumption and clarification.)

<< >>

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

<< >>

ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:

(List name, discipline, address, and other information.)

<< >>

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

OWNER *(Signature)*

<< >><>

(Printed name and title)

CONSTRUCTION MANAGER *(Signature)*

<< >><>

(Printed name and title)

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Exhibit B

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the «July» day of «10» in the year «2025»
(In words, indicate day, month and year.)

for the following **PROJECT:**
(Name and location or address)

«Dixie Sunbowl Renovation (25-217)»
«150 South 400 East »
«St. George, UT 84770 »

THE OWNER:
(Name, legal status, and address)

« City of St. George »« »
« 175 East 200 North »
« St. George, UT 84770 »
« Phone: 435-627-4000 »

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

« Hughes General Contractors, Inc. »« »
« 62 West Industrial Drive »
« Washington, UT 84780 »
« Phone: 435-628-0047 »
UT DOPL #5032616-5501

TABLE OF ARTICLES

- B.1 GENERAL**
- B.2 OWNER'S INSURANCE**
- B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS**
- B.4 SPECIAL TERMS AND CONDITIONS**

ARTICLE B.1 GENERAL

The Owner and Construction Manager shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™-2017, General Conditions of the Contract for Construction.

ARTICLE B.2 OWNER'S INSURANCE

§ B.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article B.2 and, upon the Construction Manager's request, provide a copy of the property insurance policy or policies required

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

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

This document is intended to be used in conjunction with AIA Document A201™-2017, General Conditions of the Contract for Construction. Article 11 of A201™-2017 contains additional insurance provisions.

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by Section B.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ B.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner’s usual general liability insurance.

§ B.2.3 Required Property Insurance

§ B.2.3.1 Unless this obligation is placed on the Construction Manager pursuant to Section B.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk “all-risks” completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner’s property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section B.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Construction Manager, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ B.2.3.1.1 Causes of Loss. The insurance required by this Section B.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

Cause of Loss	Sub-Limit
N/A	N/A

§ B.2.3.1.2 Specific Required Coverages. The insurance required by this Section B.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect’s and Construction Manager’s services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit
N/A	N/A

§ B.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section B.2.3.1 or, if necessary, replace the insurance policy required under Section B.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ B.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section B.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ B.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner’s occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section B.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Construction Manager shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ B.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of

the General Conditions, “all-risks” property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section B.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ B.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[] **§ B.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner’s property, or the inability to conduct normal operations due to a covered cause of loss.

[] **§ B.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[] **§ B.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[] **§ B.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[] **§ B.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[] **§ B.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured’s business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[] **§ B.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ B.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[] **§ B.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

[] **§ B.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits
N/A	N/A

ARTICLE B.3 CONSTRUCTION MANAGER’S INSURANCE AND BONDS

§ B.3.1 General

§ B.3.1.1 Certificates of Insurance. The Construction Manager shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner’s written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section B.3.2.1 and Section B.3.3.1. The certificates will show the Owner as an additional insured on the Construction Manager’s Commercial General Liability and excess or umbrella liability policy or policies.

§ B.3.1.2 Deductibles and Self-Insured Retentions. The Construction Manager shall disclose to the Owner any deductible or self- insured retentions applicable to any insurance required to be provided by the Construction Manager.

§ B.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect’s consultants as additional insureds for claims caused in whole or in part by the Construction Manager’s negligent acts or omissions during the Construction Manager’s operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Construction Manager’s negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner’s general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect’s consultants, CG 20 32 07 04.

§ B.3.2 Construction Manager’s Required Insurance Coverage

§ B.3.2.1 The Construction Manager shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Construction Manager is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ B.3.2.2 Commercial General Liability

§ B.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than «One Million Dollars» (\$ «1,000,000.00») each occurrence, «Four Million Dollars» (\$ «4,000,000.00») general aggregate, and « Four Million Dollars » (\$ «4,000,000.00») aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Construction Manager's indemnity obligations under Section 3.18 of the General Conditions.

§ B.3.2.2.2 The Construction Manager's Commercial General Liability policy under this Section B.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Construction Manager's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ B.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager, with policy limits of not less than « One Million Dollars » (\$ «1,000,000.00») per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ B.3.2.4 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section B.3.2.2 and B.3.2.3, 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.

§ B.3.2.5 Workers' Compensation at statutory limits.

§ B.3.2.6 Employers' Liability with policy limits not less than « One Million Dollars » (\$ «1,000,000.00») each accident, « One Million Dollars » (\$ «1,000,000.00») each employee, and « One Million Dollars » (\$ «1,000,000.00») policy limit.

§ B.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ B.3.2.8 If the Construction Manager is required to furnish professional services as part of the Work, the Construction Manager shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than « One Million Dollars » (\$ «1,000,000.00») per claim and « One Million Dollars » (\$ «1,000,000.00») in the aggregate.

§ B.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Construction Manager shall procure Pollution Liability insurance, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ B.3.2.10 Coverage under Sections B.3.2.8 and B.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ B.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ B.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ B.3.3 Construction Manager's Other Insurance Coverage

§ B.3.3.1 Insurance selected and described in this Section B.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Construction Manager is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

«N/A»

§ B.3.3.2 The Construction Manager shall purchase and maintain the following types and limits of insurance in accordance with Section B.3.3.1.

(Select the types of insurance the Construction Manager is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

- [] **§ B.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section B.2.3, which, if selected in this Section B.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section B.2.3.1.3 and Section B.2.3.3. The Construction Manager shall comply with all obligations of the Owner under Section B.2.3 except to the extent provided below. The Construction Manager shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Construction Manager shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
- (Where the Construction Manager's obligation to provide property insurance differs from the Owner's obligations as described under Section B.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*

«N/A»

- [] **§ B.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate, for Work within fifty (50) feet of railroad property.

- [« »] **§ B.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.
- [« »] **§ B.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an “all-risks” completed value form.**
- [« »] **§ B.3.3.2.5 Property insurance on an “all-risks” completed value form, covering property owned by the Construction Manager and used on the Project, including scaffolding and other equipment.**
- [« »] **§ B.3.3.2.6 Other Insurance**
(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage	Limits
N/A	N/A

§ B.3.4 Performance Bond and Payment Bond

The Construction Manager shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum (\$0.00)
Payment Bond	100% of Contract Amount
Performance Bond	100% of Contract Amount

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

«To be detailed by the Parties separately, if any. »



Agenda Date: 07/10/2025

Agenda Item Number: 1b

Subject:

Consider approval to purchase a mobile LED Screen from Multimedia LED.

Item at-a-glance:

Staff Contact: Sadie Bassett

Applicant Name: City of St. George

Reference Number: N/A

Address/Location:

175 East 200 North

Item History (background/project status/public process):

This item is for the purchase of a mobile LED screen that will be utilized for City-sponsored events, festivals, and community programs held throughout the year. A formal bid was issued through Bonfire and officially closed on June 19th. Four bids were received. After a thorough review, Multimedia LED was selected as the lowest qualified bidder, with a winning bid of \$133,841.50. Funding for this item was included in the FY 2026 Adopted Budget in the RAP Tax fund.

Staff Narrative (need/purpose):

The Mobile LED Screen is needed to improve event efficiency, reduce staff workload, and provide a flexible solution that can be quickly deployed across various city locations. Currently, setting up traditional screens for events like Movies in the Park requires multiple staff members and several hours of labor. The Mobile LED Screen significantly reduces this burden, as it can be set up by a single person in just minutes, saving valuable staff time and resources that can be redirected to other event needs. Its purpose is to enhance the quality, convenience, and accessibility of city events while serving as a multi-functional tool for communication and revenue generation. The screen offers opportunities for rentals, paid advertisements, sponsorships, QR code promotions, and city messaging, making it a source of ongoing income. It supports a wide range of uses including movies, concerts, rodeos, races, sporting events, emergency alerts, and wayfinding.

Name of Legal Dept approver: Daniel Baldwin

Budget Impact:

Cost for the agenda item: \$133,841.50

Amount approved in current FY budget for item: \$152,880

If not approved in current FY budget or exceeds the budgeted amount, please explain funding source:

N/A

Description of funding source:

Capital Project - RAP TAX 80-7300

Recommendation (Include any conditions):

Recommend Approval



Sales Quote

Page: 1

Sales Quote Number: 1736
Sales Quote Date: 5/30/2025

4225 Prado Rd, Suite 108, Corona, CA 92878
Tel: 951-280-7500. Fax: 951-335-8152
Email: Customerservice@multimedialed.com
Website: www.multimedialed.com | www.MobilScoreboards.com

Sell City of St George
To: Sadie Bassett
175 East 200 North
St George, UT 84770

Ship City of St George
To: Sadie Bassett
175 East 200 North
St George, UT 84770

Tax Ident. Type Legal Entity

Customer ID CU3365

SalesPerson Michael Frost

Ship Via

Phone No.: 515.236.0864

Terms NET 30 DAYS

Item No.	Description	Unit	Qty	Unit Price	Total Price
	The MobilLift™ 1710 New 17x10 feet screen 60 inch hydraulic lift 360-degree rotational functionality Display: 3.91mm Enivromax™ Series Display 17'x10' Full Video 60fp 100,000 Hour rated life 7,000 NIT high brightness 1,280 x 768 Pixels 5 year warranty Trailer: 8,500lbs total weight 26'x8'x12.5' – LWH Tandem 5k axel with electric brakes All steel construction Painted to customer specified color (black std) Upgrade to a 14U Production box @ No charge 1 live video input standard Supports Mac, Windows or Linux .		1	114,000.00	114,000.00
	Generator: Kubota Lowboy Pro II Series 11,000 Watt Diesel .		1	11,800.00	11,800.00



Sales Quote

Page: 2

Sales Quote Number: 1736
Sales Quote Date: 5/30/2025

4225 Prado Rd, Suite 108, Corona, CA 92878
Tel: 951-280-7500. Fax: 951-335-8152
Email: Customerservice@multimedialed.com
Website: www.multimedialed.com | www.MobilScoreboards.com

Sell City of St George
To: Sadie Bassett
175 East 200 North
St George, UT 84770

Ship City of St George
To: Sadie Bassett
175 East 200 North
St George, UT 84770

Tax Ident. Type Legal Entity

Customer ID CU3365

SalesPerson Michael Frost

Ship Via

Phone No.: 515.236.0864

Terms NET 30 DAYS

Item No.	Description	Unit	Qty	Unit Price	Total Price
	Bluetooth Rolls 8 channel Bluetooth Audio Mixer		1	319.00	319.00
	Speaker Package 15" EV Speakers with 1,000 Watt CROWN Amp		1	3,800.00	3,800.00
	Scoring Package Included tablet for scoring and content control Support for most major scoring consoles Football, Soccer, Lacrosse, Water Polo, Beach Volleyball (up to 6 courts), Baseball, softball and tennis.		1	3,000.00	3,000.00
	Shipping Charges from Corona, CA		1	922.50	922.50
<p>Quote is valid for 30 days from the date above All electronic parts sold are final and cannot be returned for refund. To Accept this quotation, please sign & date below and return via email to: customerservice@multimedialed.com</p>					

Amount Subject to Sales Tax 0
Amount Exempt from Sales Tax 133,841.50

Subtotal: \$133841.50
Invoice Discount: 0.00
Total Sales Tax: 0.00
Total: 133,841.50

CITY OF ST GEORGE - AS READ BID TABULATION**

PROJECT NAME: 25-221 MOBILE LED SCREEN

OPENING DATE: 6/19/2025

	VENDORS	INSANE IMPACT	MOBILE BILLBOARD MIAMI	MULTIMEDIA LED	NABS CREATIVE
1	EQUIPMENT	\$154,043.50	\$183,000.00	\$132,919.00	\$287,500.00
2	FREIGHT	\$5,836.50	\$17,000.00	\$922.50	INCL
	TOTAL BID	\$159,880.00	\$200,000.00	\$133,841.50	\$287,500.00

**This is the initial reading of the bids. All of the information is subject to verification and evaluation in accordance with the published bid criteria.



Agenda Date: 07/10/2025

Agenda Item Number: 1C

Subject:

Consider approval of the First Amendment to the Development and Reimbursement Agreement between Property Reserve, Inc., Suburban Land Reserve, Inc, and the City of St. George.

Item at-a-glance:

Staff Contact: Jay Sandberg

Applicant Name: N/A

Reference Number: N/A

Address/Location:

N/A

Item History (background/project status/public process):

This amendment covers the installation of a new sewer line that will be installed in Merrill Road that was not included in the original development and reimbursement agreement that was approved by the City Council on March 7, 2024.

Staff Narrative (need/purpose):

Rather than two city's working on two separate projects with potentially two separate contractors in the same roadway, it was determined that it was in the best interest of the public and both city's to combine the projects.

Name of Legal Dept approver: Alicia Carlton

Budget Impact: No Impact

Recommendation (Include any conditions):

Approval

FIRST AMENDMENT TO
DEVELOPMENT AND REIMBURSEMENT AGREEMENT
(Viviano at Red Cliffs Storm Drain and Merrill Road Improvements –
City reimburses PRI and LR)

THIS FIRST AMENDMENT TO DEVELOPMENT AND REIMBURSEMENT AGREEMENT (“**Amendment**”) is made and entered into this ___ day of _____, 2025 (“**Effective Date**”), by and between CITY OF ST. GEORGE, a municipal corporation of the State of Utah (hereinafter referred to as the “**City**”), PROPERTY RESERVE, INC., a Utah nonprofit corporation (hereinafter referred to as “**PRI**”), and LAND RESERVE, INC., a Utah corporation f/k/a Suburban Land Reserve, Inc., a Utah corporation (hereinafter referred to as “**LR**”). City, PRI and LR may be referred to herein individually as a “**Party**” and collectively referred to as the “**Parties**”.

RECITALS

A. City, PRI, and LR are parties to that certain Development and Reimbursement Agreement dated March 21, 2024 (the “**Agreement**”) in connection with the development of certain real property located in Washington County, Utah, as more particularly described in the Agreement.

B. In addition to the Merrill Road Improvements described and set forth in the Agreement, LR intends to rebuild the north half of Merrill Road, which is located within Washington City boundaries, as well as a Washington City sewer line.

C. In connection with this additional work, the Parties now desire to amend the Agreement, subject to the terms and conditions set forth in this Amendment.

D. City, acting pursuant to its authority under Utah Code Annotated, Section 10-9a-101, et. seq., and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations has determined this Amendment is in the best interest of the citizens of the City of St. George, and, in the exercise of its legislative discretion, has elected to approve this Amendment.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Defined Terms; Recitals. Capitalized terms used, but not specifically defined herein, shall have the meanings given them under the Agreement. The foregoing recitals are incorporated herein and are a part of this Amendment.

2. Merrill Road Improvements; Reimbursement. The Parties acknowledge and agree that the Agreement is hereby amended to the extent necessary such that the Merrill Road Improvements shall also include the rebuilding and reconstruction of the north half of Merrill Road, which is located within Washington City boundaries, as well as the construction and

installation of a Washington City sewer line. The Merrill Road Improvements are shown on Exhibit C-1 attached to this Amendment and incorporated herein, and the projected work and currently estimated costs associated with the Merrill Road Improvements are set forth on Exhibit D-1 attached to this Amendment and incorporated herein. The Parties acknowledge and agree that (i) Exhibit C to the Agreement is hereby deleted and replaced with Exhibit C-1, and (ii) Exhibit D to the Agreement is hereby deleted and replaced with Exhibit D-1. City agrees that in exchange for the construction and installation of the Merrill Road Improvements, including those set forth in this Amendment, City will reimburse LR for the costs and management fees associated with such work in accordance with the terms of the Agreement; provided, however, that City may enter into its own reimbursement agreement with Washington City for any portions of the Merrill Road Improvements located within the boundaries of Washington City.

3. Binding Effect; Full Force. The terms and conditions of this Amendment shall be binding upon and inure to the benefit of the Parties and their respective successors, transferees and assigns. Except as specifically provided herein, the terms and conditions of the Agreement shall remain in full force and effect. If any provision of the Agreement is in conflict with any provisions of this Amendment, the terms of the Amendment shall control.

4. Authority of Parties. The Parties executing this Agreement hereby warrant and represent that they are duly authorized to do so in the capacity stated, and that this Agreement constitutes a valid and binding agreement.

5. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same document and agreement. A copy, facsimile or email transmission of any part of this Amendment, including the signature page, shall have the same force and effect as an original.

[Signatures to Follow]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the Effective Date.

PRI:

PROPERTY RESERVE, INC.,
a Utah nonprofit corporation

By: _____
Name: Ashley Powell
Its: President

LR:

LAND RESERVE, INC.,
a Utah corporation f/k/a Suburban Land Reserve, Inc., a Utah corporation

By: _____
Name: Tyler Buswell
Its: President

CITY:

CITY OF ST. GEORGE,
a municipal corporation of the State of Utah

By: _____
Michele Randall,
Mayor

Attest: _____
Christina Fernandez,
City Recorder

Approved as
to form: _____
Alicia Carlton
Assistant City Attorney

Exhibit C-1

(Depiction of the Merrill Road Improvements)

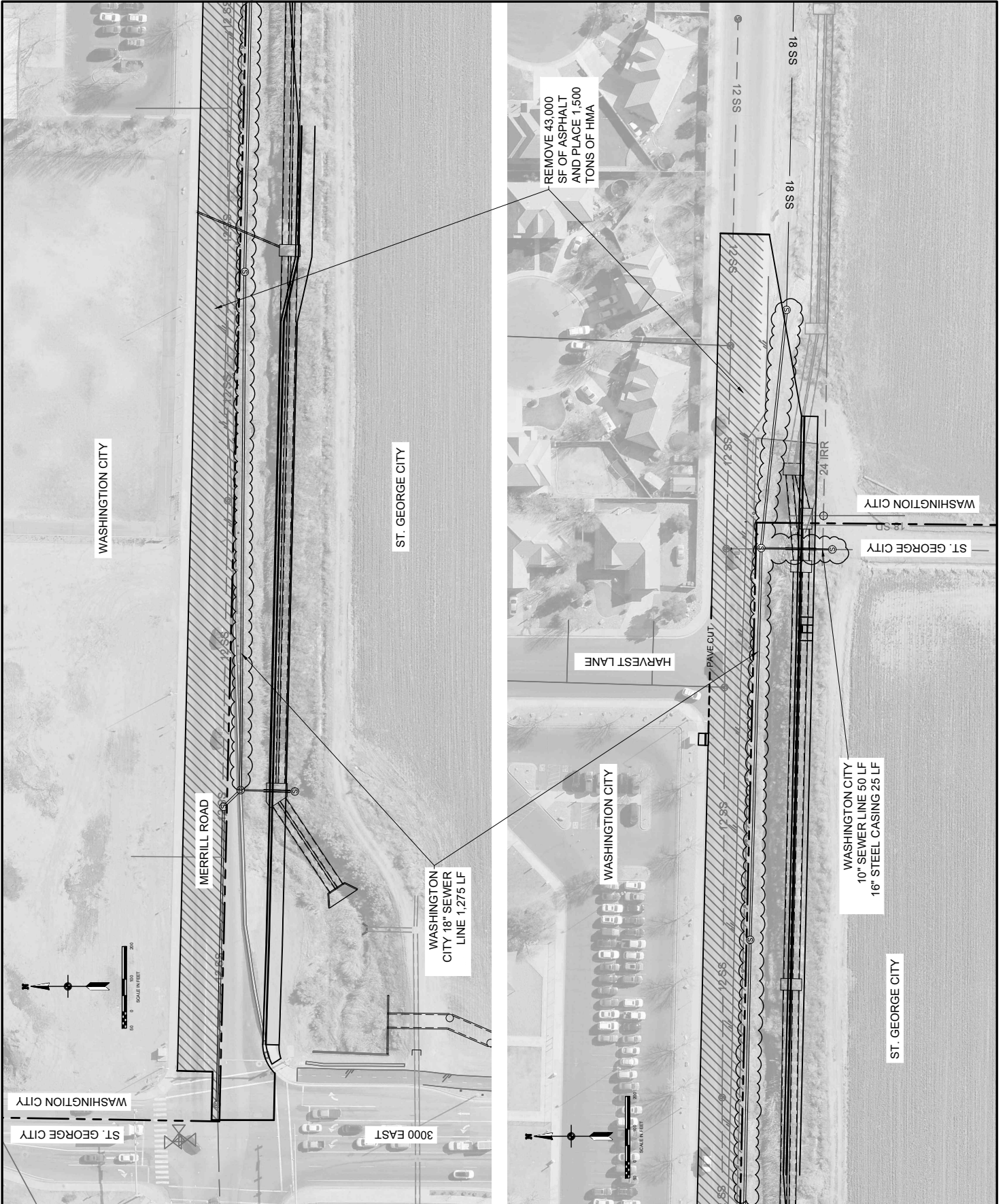
See attached.

Exhibit D-1

(Projected Work and Estimated Costs of Storm Drain and Merrill Road Improvements)

See attached.

S:\St. George City\001-22-08 Washington Fields Phase 3\2.0 Design Phase\2.7 Drawings\sh\Phase 2 - Merrill Rd Widening and SD\Reimbursement_Figure_Revised.dwg Plotted: 6/12/2025 11:21 AM By: Clinton Merrell



MERRILL RD WIDENING AND UTILITIES
ST. GEORGE CITY
WASHINGTON CITY
IMPROVEMENTS SUMMARY

Exhibit A

BID SCHEDULE SUMMARY

Merrell Road Widening and Utilities Project
 Land Reserve/City of St. George/Washington City
 Bids Were Opened On: Friday, April 18, 2025



BASE BID					Sunroc Corporation (Revised)	
Item No.	Description	Quantity	Unit	Unit Cost	Amount	
1	Mobilization, Demobilization, and Administrative Items (Not to exceed 8% of Total Bid)	1	LS	\$ 125,695.00	\$	125,695.00
2	Traffic Control	1	LS	\$ 15,000.00	\$	15,000.00
3	Construction Survey	1	LS	\$ 44,175.00	\$	44,175.00
4	Stormwater Pollution Prevention	1	LS	\$ 22,300.00	\$	22,300.00
5	Clearing and Grubbing	1	LS	\$ 40,460.00	\$	40,460.00
Base Bid - St. George City Share						\$ 193,553.32
Base Bid - Washington City Share						\$ 54,076.68
Base Bid Total						\$ 247,630.00
A1	Remove Existing Asphalt	7,500	SF	\$ 1.25	\$	9,375.00
A2	Remove Existing Fence	1	LS	\$ 2,130.00	\$	2,130.00
A3	Roadway Excavation	1	LS	\$ 86,010.00	\$	86,010.00
A4	Concrete Curb and Gutter Type HB30-7	1,400	LF	\$ 30.55	\$	42,770.00
A5	Concrete Sidewalk	175	SF	\$ 11.60	\$	2,030.00
A6	Salvage Concrete Jersey Barrier	1	LS	\$ 1,900.00	\$	1,900.00
A7	Hot Mix Asphalt (1/2 Inch Trall Mix), 2.5 inch thick	210	TON	\$ 122.35	\$	25,693.50
A8	Untreated Base Course, 6-inch thick	250	CY	\$ 54.75	\$	13,687.50
A9	Hot Mix Asphalt (1/2 inch Mix), 4.5 inch thick	1,600	TON	\$ 99.00	\$	158,400.00
A10	Untreated Base Course, 12-inch thick	2,100	CY	\$ 50.25	\$	105,525.00
A11	Soft Spot Repair	200	CY	\$ 88.48	\$	17,696.00
A12	Woven Geotextile Stabilization Fabric	5,850	SY	\$ 6.60	\$	38,610.00
A13	Joint Utility Trench	1,500	LF	\$ 20.75	\$	31,125.00
A14	SG City Comm. Conduits (Detail C/2600)	1,400	LF	\$ 19.15	\$	26,810.00
A15	PC-Junction Box, Tier 22, Type II	2	EA	\$ 4,555.00	\$	9,110.00
A16	Pedestrian Access Ramp	1	EA	\$ 2,656.00	\$	2,656.00
A17	Pavement Striping	1	LS	\$ 6,235.00	\$	6,235.00
A18	54-inch Class III Reinforced Concrete Pipe	2,400	LF	\$ 415.00	\$	996,000.00
A19	14'x7' Storm Drain Junction Structure	5	EA	\$ 31,845.00	\$	159,225.00
A20	Storm Drain/Sewer Conflict Structure	1	EA	\$ 83,590.00	\$	83,590.00
A21	Outlet Headwall with Safety Grates, See S-01	1	LS	\$ 59,610.00	\$	59,610.00
A22	Install Safety Grates on Existing Culvert Headwall, See S-01	1	LS	\$ 7,048.00	\$	7,048.00
A23	Class III Riprap (D50-12")	500	CY	\$ 60.95	\$	30,475.00
A24	Non-Woven Geotextile Filter Fabric (Detail C/2251)	850	SY	\$ 3.75	\$	3,187.50
A25	Dewatering For Storm Drain Install	1	LS	\$ 129,210.00	\$	129,210.00
A26	Flowable Fill Backfill, Only as Directed by Engineer	100	CY	\$ 287.00	\$	28,700.00
A27	Trench Stabilization Material, Only as Directed by Engineer	2,000	CY	\$ 66.60	\$	133,200.00
A28	Landscaping	1	LS	\$ 87,145.00	\$	87,145.00
A29	Install New Street Sign	1	EA	\$ 750.00	\$	750.00
A30	Relocate Street Sign	1	EA	\$ 540.00	\$	540.00
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A34	10-inch 22.5 degree bend	2	EA	\$ 1,224.00	\$	2,448.00
A35	20"x20"x20" Tee	1	EA	\$ 11,545.00	\$	11,545.00
A36	10" Gate Valve	1	EA	\$ 6,209.00	\$	6,209.00
A37	20"x10" Reducer	1	EA	\$ 2,595.00	\$	2,595.00
A38	3/4" Water Service, Complete	1	EA	\$ 3,314.00	\$	3,314.00
A39	5-foot Diameter Polymer Sanitary Sewer Manhole (Detail C/2510)	3	EA	\$ 26,641.00	\$	79,923.00
A40	18-inch SDR-35 Sewer Line	240	LF	\$ 157.00	\$	37,680.00
A41	10-inch Certa-Flo PVC Sewer	36	LF	\$ 148.00	\$	5,328.00
A42	20" Steel Casing	20	LF	\$ 213.00	\$	4,260.00
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A44	60 Amp Electrical Service (Detail C/2801)	1	LS	\$ 11,832.00	\$	11,832.00
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B3	Hot Mix Asphalt (1/2 inch Mix), 4.5 inch thick	1,500	TON	\$ 97.50	\$	146,250.00
B4	Untreated Base Course, 12-inch thick	2,000	CY	\$ 46.60	\$	93,200.00
B5	Woven Geotextile Stabilization Fabric	5,750	SY	\$ 6.60	\$	37,950.00
B6	Pavement Striping	1	LS	\$ 4,433.00	\$	4,433.00
B7	12-inch HDPE Storm Drain Pipe	70	LF	\$ 87.50	\$	6,125.00
Bid Schedule B - Washington City Road Reconstruction Subtotal						\$ 350,008.00
B8	18-inch SDR 35 PVC	1,275	LF	\$ 146.50	\$	186,787.50
B9	10-inch Certa Flo PVC	50	LF	\$ 134.90	\$	6,745.00
B10	5-foot Standard Concrete Sewer Manhole	4	EA	\$ 7,996.00	\$	31,984.00
B11	5-foot Drop Concrete Sewer Manhole	1	EA	\$ 8,021.00	\$	8,021.00
B12	16" Steel Casing	25	LF	\$ 248.50	\$	6,212.50
B13	Sewer Bypass Pumping	1	LS	\$ 21,735.00	\$	21,735.00
B14	Dewatering for Sewer Install	1	LS	\$ 106,640.00	\$	106,640.00
Bid Schedule B - Washington City Sewer Subtotal						\$ 368,125.00
Bid Schedule B - Total						\$ 718,133.00
Total Bid:						\$3,536,132.00

Preliminary Opinion of Probable Construction Cost



Project: Washington Fields Phase 3 - 1140 S to Merrell Rd			Date:	2/27/2024	
Owner: City of St. George			Prepared by:	CM/TO	
Item No.	Classification of Unit Price Work	Quantity	Unit	Unit Price	Amount
1140 S to Merrill Rd SD					
1	Mobilization, Demobilization, and Administrative Items	1	LS	\$ 720,000	\$ 720,000
2	Traffic Control	1	LS	\$ 50,000	\$ 50,000
3	Survey	1	LS	\$ 40,000	\$ 40,000
4	10'x6' Concrete Box Culvert	3,200	LF	\$ 2,930	\$ 9,376,000
5	15'x4' Concrete Box Culvert	50	LF	\$ 4,000	\$ 200,000
6	16'x6' Storm Drain Junction Structure	1	EA	\$ 54,000	\$ 54,000
7	5-foot Diameter Concrete Storm Drain Manhole	12	EA	\$ 7,300	\$ 87,600
8	Outlet Headwall	1	EA	\$ 20,000	\$ 20,000
9	Hot Mix Asphalt (1/2 inch Trail Mix), 2.5 inch thick	100	TON	\$ 110	\$ 11,000
10	Untreated Base Course, 6-inch thick	115	CY	\$ 40	\$ 4,600
11	Riprap D50 =9"	250	CY	\$ 55	\$ 13,750
12	Geotextile	555	SY	\$ 3.5	\$ 1,943
13	Dewatering	1	LS	\$ 150,000	\$ 150,000
14	Shoring	1	LS	\$ 100,000	\$ 100,000
15	Flowable Fill Backfill, Only as Directed by Engineer	100	CY	\$ 260	\$ 26,000
16	Trench Stabilization Material, Only as Directed by Engineer	200	CY	\$ 50	\$ 10,000
Contingency				10%	\$ 1,005,489
Subtotal					\$ 11,870,382



Agenda Date: 07/10/2025

Agenda Item Number: 1d

Subject:

Consider approval of a Reimbursement Agreement between Washington City and St. George City for the Merrill Road Sewer Line Improvement Agreement

Item at-a-glance:

Staff Contact: Jay Sandberg

Applicant Name: N/A

Reference Number: N/A

Address/Location:

Merrill Road

Item History (background/project status/public process):

The purpose of this agreement is to reimburse St. George for the cost to install a sewer line in Merrill Road.

Staff Narrative (need/purpose):

St. George is constructing a storm drain in Merrill Road and Washington City is upsizing a sewer line in Merrill Road. The north half of the roadway is in Washington City, and the south half of the roadway is in St. George. It is in the best interest of both city's to combine the project. St. George will manage the project, and Washington City will reimburse St. George for the costs of the sewer.

Name of Legal Dept approver: Alicia Galvany Carlton

Budget Impact: No Impact

Recommendation (Include any conditions):

Approval

RESOLUTION NO. R2025-21

A RESOLUTION OF THE CITY COUNCIL OF WASHINGTON CITY, UTAH, APPROVING AND AUTHORIZING THE EXECUTION OF A REIMBURSEMENT AGREEMENT WITH THE CITY OF ST. GEORGE FOR THE MERRILL ROAD SEWER LINE IMPROVEMENT PROJECT

WHEREAS, Washington City and the City of St. George (collectively, the “Parties”) have determined that certain sewer line improvements are necessary along Merrill Road to support regional infrastructure needs; and

WHEREAS, the City of St. George has undertaken the Merrill Road Sewer Line Improvement Project (the “Project”) and Washington City has agreed to reimburse St. George for its proportional share of the costs associated with the Project; and

WHEREAS, a Reimbursement Agreement has been prepared to outline the terms, conditions, and financial responsibilities of each Party related to the Project; and

WHEREAS, the City Council of Washington City has reviewed the proposed Reimbursement Agreement and finds that it is in the best interest of the City and its residents to enter into the Agreement to ensure continued infrastructure cooperation and service delivery;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF WASHINGTON CITY, UTAH, THAT:

1. Approval of Agreement: The Reimbursement Agreement between Washington City and the City of St. George for the Merrill Road Sewer Line Improvement Project is hereby approved in substantially the form presented to the City Council.
2. Authorization to Execute: The Mayor is hereby authorized to execute the Agreement, along with any and all related documents necessary to carry out the intent of this Resolution, subject to final review and approval by the City Attorney.
3. Effective Date: This Resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED on this 25th Day of June, 2025.

Attest by:



Tara Pentz, City Recorder



Washington City



Kress Staheli, Mayor

COUNCIL MEMBERS OF WASHINGTON CITY, UTAH:

Troy Belliston	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay
Kim Casperson	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay
Craig Coats	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay
Bret Henderson	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay
Kurt Ivie	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay

REIMBURSEMENT AGREEMENT
MERRILL ROAD SEWER LINE IMPROVEMENT PROJECT
WITH CITY OF ST. GEORGE

THIS REIMBURSEMENT AGREEMENT (“Agreement”) dated the ____ day of ____ 2025, is between St. George City (hereinafter "ST. GEORGE"), a Utah municipal corporation, and Washington City, a Utah municipal corporation (hereinafter "WASHINGTON"). ST. GEORGE and WASHINGTON may be individually referred to as a “Party” or jointly referred to as the “Parties.”

RECITALS

Whereas, ST. GEORGE and WASHINGTON wish to enter into an agreement to construct sewer line and roadway improvements along Merrill Road which is located in WASHINGTON, as per attached Exhibit A; and

Whereas, the construction of the sewer line and roadway improvements in WASHINGTON shall be known as the *Merrill Road Sewer Line Improvement Project* (“*Sewer Project*”) and

Whereas, the construction of the storm drain and roadway improvements in ST. GEORGE shall be known as the *Merrill Road Improvement Project* (“*Storm Drain Project*”) and

Whereas, the combined Sewer Project and Storm Drain Project shall be hereinafter collectively be referred to as the "PROJECT" and

Whereas, the Parties have each determined that the PROJECT is an appropriate project for which to provide funding and have each authorized funding for the PROJECT; and

Whereas, ST. GEORGE will fund the PROJECT; and

Whereas, WASHINGTON will reimburse ST. GEORGE for the Sewer Project as provided herein.

AGREEMENT

NOW THEREFORE, in consideration of the covenants contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, ST. GEORGE and WASHINGTON agree as follows:

1. Funding and Party Responsibilities: At its own expense ST. GEORGE will fund the PROJECT. Quality control, observation, and testing will be provided by ST. GEORGE for the Storm Drain Project. Quality control, observation, and testing will be provided by WASHINGTON for the Sewer Project.
2. Reimbursement: A cost breakdown of the PROJECT is shown in attached Exhibit B. WASHINGTON and ST. GEORGE anticipate the total cost of the PROJECT to be \$3,536,132.00. WASHINGTON agrees to reimburse ST. GEORGE for 100% of the actual costs of the Sewer Project up to \$772,209.68 as follows:

2.1 Reimbursement of Sewer Project shall be made within sixty days (60) days of receipt of written documentation from ST. GEORGE evidencing the actual costs of the Sewer Project.

2.2 Each Party shall pay its own administrative fees in connection with this Agreement or any costs arising herefrom.

3. Indemnity: ST. GEORGE and WASHINGTON are both governmental entities subject to the Governmental Immunity Act. Each Party agrees to indemnify, defend and save harmless the other Party from any and all damages, claims, suits, costs, attorney's fees and actions arising from or related to its actions or omissions or the acts or omissions of its officers, agents, or employees in connection with the performance and/or subject matter of this Agreement. The obligation to indemnify is limited to the dollar amounts set forth in the Governmental Immunity Act, provided said Act applies to the action or omission giving rise to the protections of this paragraph. This paragraph shall not be construed as a waiver of the protections of the Governmental Immunity Act. The indemnification in this paragraph shall survive the expiration or termination of this Agreement.
4. Insurance: ST. GEORGE shall have a continuing duty to require any contractor engaged by a third party to perform the work on the PROJECT to procure and maintain insurance against claims for injuries to persons or damages which may arise from, or in connection with the exercise of the rights, privileges, and granted in accordance with ST. GEORGE'S standard insurance requirements. ST. GEORGE and WASHINGTON will be named as additional insureds on the insurance policy according to ST. GEORGE and WASHINGTON requirements.
5. Assignment. Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other Party, individual or entity without assigning the rights as well as the responsibilities under this Agreement and without prior written consent of ST. GEORGE and WASHINGTON.
6. No Joint Venture, Partnership or Third-Party Rights. Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture between ST. GEORGE and WASHINGTON. No term or provision of this Agreement is intended to or shall, be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.
7. Integration. This Agreement contains the entire Agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understanding of whatever kind or nature and may only be modified by a subsequent writing duly executed by the parties hereto.
8. Severability. If any part or provision of this Agreement shall be determined to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, such a decision shall not affect any other part or provision of this Agreement.
9. Survival. It is expressly agreed that the terms, covenants and conditions of this Agreement shall survive any legal act or conveyance required under this Agreement.
10. Headings. The section and other headings in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.
11. Governing Law and Venue. This Agreement shall be construed according to the laws of the State of Utah. The parties agree that venue for all legal actions, unless they involve a cause of action with mandatory federal jurisdiction, shall be the Fifth District Court in Washington County, for the State of Utah. The parties further agree that the Federal District Court for the District of Utah

located in Washington County shall be the venue for any cause of action with mandatory federal jurisdiction.

12. Attorney Fees and Court Costs. In the event of any dispute or litigation between the parties arising out of or related to this Agreement, each Party shall pay its own attorney fees, court costs, and any other reasonable costs incurred in connection with such action, whether at trial or on appeal.
13. Counterparts. This Agreement may be executed in counterparts each of which shall be an original and shall constitute one and the same agreement.
14. Authority of Parties. The parties executing this Agreement warrant and represent that they are duly authorized to do so in the capacity stated.

INTENTIONALLY LEFT BLANK

CITY OF ST. GEORGE

By: _____
Michele Randall, Mayor

ATTEST

By: _____
Christina Fernandez, City Recorder

APPROVED AS TO FORM

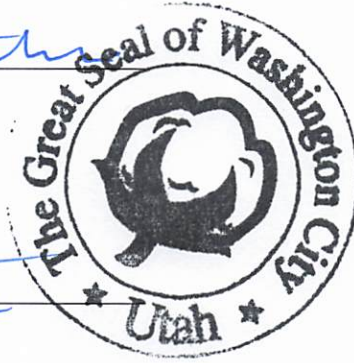
By: _____
Alicia Galvany Carlton, Asst. City Attorney

WASHINGTON CITY

By: *Kress Staheli*
Kress Staheli, Mayor

ATTEST

By: *Tara Pentz*
Tara Pentz, City Recorder



APPROVED AS TO FORM

By: *Thad Seegmiller*
Thad Seegmiller, City Attorney

Exhibit A

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Merrell Road Widening and Utilities Project
 Land Reserve/City of St. George/Washington City
 Bids Were Opened On: Friday, April 18, 2025



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B12	16" Steel Casing	25	LF	\$ 248.50	\$	6,212.50
B13	Sewer Bypass Pumping	1	LS	\$ 21,735.00	\$	21,735.00
B14	Dewatering for Sewer Install	1	LS	\$ 106,640.00	\$	106,640.00
Bid Schedule B - Washington City Sewer Subtotal						\$ 368,125.00
Bid Schedule B - Total						\$ 718,133.00
Total Bid:						\$3,536,132.00

Preliminary Opinion of Probable Construction Cost



Project: Washington Fields Phase 3 - 1140 S to Merrell Rd			Date:	2/27/2024	
Owner: City of St. George			Prepared by:	CM/TO	
Item No.	Classification of Unit Price Work	Quantity	Unit	Unit Price	Amount
1140 S to Merrill Rd SD					
1	Mobilization, Demobilization, and Administrative Items	1	LS	\$ 720,000	\$ 720,000
2	Traffic Control	1	LS	\$ 50,000	\$ 50,000
3	Survey	1	LS	\$ 40,000	\$ 40,000
4	10'x6' Concrete Box Culvert	3,200	LF	\$ 2,930	\$ 9,376,000
5	15'x4' Concrete Box Culvert	50	LF	\$ 4,000	\$ 200,000
6	16'x6' Storm Drain Junction Structure	1	EA	\$ 54,000	\$ 54,000
7	5-foot Diameter Concrete Storm Drain Manhole	12	EA	\$ 7,300	\$ 87,600
8	Outlet Headwall	1	EA	\$ 20,000	\$ 20,000
9	Hot Mix Asphalt (1/2 inch Trail Mix), 2.5 inch thick	100	TON	\$ 110	\$ 11,000
10	Untreated Base Course, 6-inch thick	115	CY	\$ 40	\$ 4,600
11	Riprap D50 =9"	250	CY	\$ 55	\$ 13,750
12	Geotextile	555	SY	\$ 3.5	\$ 1,943
13	Dewatering	1	LS	\$ 150,000	\$ 150,000
14	Shoring	1	LS	\$ 100,000	\$ 100,000
15	Flowable Fill Backfill, Only as Directed by Engineer	100	CY	\$ 260	\$ 26,000
16	Trench Stabilization Material, Only as Directed by Engineer	200	CY	\$ 50	\$ 10,000
Contingency				10%	\$ 1,005,489
Subtotal					\$ 11,870,382