

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

- 
- 1. CALL TO ORDER - CHAIRMAN**
  - 2. APPROVAL OF WORK SESSION AGENDA - CHAIRMAN**
    - 2.1. BOC - Changes to the Agenda
  - 3. DISCUSSION ITEMS - NO ACTION**
    - 3.1. 2018 Child Protection and Fatality Team Report
    - 3.2. FY 20 Capital Improvement Discussion
  - 4. DISCUSSION ITEMS FOR ACTION**
    - 4.1. Cabarrus County Schools - Increase Funding for 124 New Charter School Students Based on the Better of 1st or 2nd Month ADM Count
    - 4.2. County Manager - Odell Sewer and Right of Way Easements
    - 4.3. County Manager - Offer to Purchase County Property off Bradford Road
    - 4.4. County Manager - Water Line Easement at West Cabarrus High School
    - 4.5. Emergency Management – Fire Services Overview: Consideration for Completion of Fire Manpower Program Proposal
    - 4.6. EMS - Zoll Cardiac Monitor Purchase
    - 4.7. Finance - Adjust Soil and Water Prime Farmland Funding to the Capital Improvement Plan Level
    - 4.8. Finance - North Carolina Education Lottery Payment Applications for School Debt Service
    - 4.9. Finance - Balance of FY19 Construction Funding for West Cabarrus High School and Hickory Ridge Elementary School
    - 4.10. Finance - Updates to the School Construction Fund and Construction and Renovation Fund
    - 4.11. Finance – Partial Funding for the New Courthouse Architect, Pre-Construction Administration Contracts, Engineering and Other Improvements
    - 4.12. Human Resources - Health Insurance Renewal FY20
    - 4.13. Infrastructure and Asset Management - Courthouse Expansion Construction Manager at Risk Contract

- 4.14. Infrastructure and Asset Management - Means Avenue Resolution
- 4.15. Planning and Development - Advisory Board Recommendation Regarding Deferred Tax Funds
- 4.16. Planning and Development - Community Development Block Grant (CDBG) 2010 Project Ordinance and Budget Amendment
- 4.17. BOC - Appointments to Boards and Committees

**5. APPROVAL OF REGULAR MEETING AGENDA**

- 5.1. BOC - Approval of Regular Meeting Agenda

**6. ADJOURN**

*In accordance with ADA regulations, anyone in need of an accommodation to participate in the meeting should notify the ADA coordinator at 704-920-2100 at least 48 hours prior to the meeting.*

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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**AGENDA CATEGORY:**

Approval of Work Session Agenda - Chairman

**SUBJECT:**

BOC - Changes to the Agenda

**BRIEF SUMMARY:**

A list of changes to the agenda is attached.

**REQUESTED ACTION:**

Motion to approve the agenda as amended.

**EXPECTED LENGTH OF PRESENTATION:**

1 Minute

**SUBMITTED BY:**

Lauren Linker, Clerk to the Board

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- Changes to the Agenda



**CABARRUS COUNTY BOARD OF COMMISSIONERS  
CHANGES TO THE AGENDA  
MARCH 11, 2019**

**ADDITIONS:**

**Discussion Items – No Action**

**3-2 FY 20 Capital Improvement Discussion**

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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**AGENDA CATEGORY:**

Discussion Items - No Action

**SUBJECT:**

2018 Child Protection and Fatality Team Report

**BRIEF SUMMARY:**

A representative from the Cabarrus County Child Protection and Fatality Team will present the annual review of our child fatalities and current issues impacting our children's welfare.

**REQUESTED ACTION:**

Receive input.

**EXPECTED LENGTH OF PRESENTATION:**

1 Hour or More

**SUBMITTED BY:**

Paula Yost, JD, LPCA Chair, Cabarrus County Child Protection and Fatality Team

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- 2018 Child Protection and Fatality Team Report

# The State of our Children: A 2018 Report

PAULA J. YOST, JD, LPCA, CHAIR

CABARRUS COUNTY, CHILD PROTECTION & FATALITY TEAM

# What is CPFT?

- ▶ CPFT = Child Protection & Fatality Team
- ▶ In Cabarrus County, it has made sense to combine both teams. Thus, we combined with the goal of becoming one of the top CPFTs in the state.
- ▶ A focus is on examining the deaths of children in the county during the previous calendar year.
- ▶ We discuss each case and ponder ways that the deaths could have been prevented and look at issues county wide that lead to better protection of our children.
- ▶ We are mandated by G.S. 7B 1407
- ▶ An interdisciplinary group of community representatives who meet regularly to promote a community-wide approach to the problem of child abuse and neglect.

# 2017 Child Deaths

- ▶ Illness-5: 1-Patau's Syndrome, 1-Asthma complications, 1- Cerebral Palsy, 1-Malignant Neoplasm of Brain Stem, 1-Pulmonary Hypertension
- ▶ Prematurity- 8
- ▶ Accidental-4: 1-Strangulation and Suffocation/Asphyxiation (13 years), 1-Injury resulting from car accident (7 years), 1-Unsafe Sleep (2 months), 1-SIDS (2 months)
- ▶ Suicide-1: Handgun (17 years)
- ▶ **DA's review/pending-3**

TOTAL = 21 (2013-25; 2014-18, 2015-23; 2016-22)



# Child Abuse – DHS Numbers

- ▶ CPS reports received: 3,031
- ▶ Reports accepted: 2,287
- ▶ Average number of cases open in In Home Services for a month: 53
- ▶ Average number of children in foster care for a month: 95
- ▶ Number of petitions filed for custody: 72
- ▶ Foster children moved to permanence: 57

# Safety in CyberSpace

Helping You to  
Navigate the Internet

Ashlie Shanley  
Chief Assistant District Attorney 25

# Social Media

Good Choices  
with Social  
Media lead to  
Excellent Results

Bad Choices  
with Social  
Media lead to  
Trouble

You must FIRST know that...  
Predators NEVER identify who they  
are or what they really want...



## **Keep this Info Private:**

- Your Full Name
- Your Current Location
- Address of You, Family Member or Friend;

## **Think Before Creating a Screen Name...**

- do not reveal age;
  - Ex CHS'19



- Never Meet in Person an “Online Friend”
  - Offenders Do Not Reveal Who They Are;
- If a Student feels uncomfortable for any reason...EXIT the conversation and report it;



- Be careful when sending photos/messages...
  - Think before you Send;
- Make Sure Your Lock Down Social Media
  - just like you lock the door of your home:
- Offenders use social media to find kids, and learn their vulnerabilities;
- Report Any Bullying Message;



# Contact Me

Who can contact you directly with Snaps, Chats, calls, etc.?

Everyone

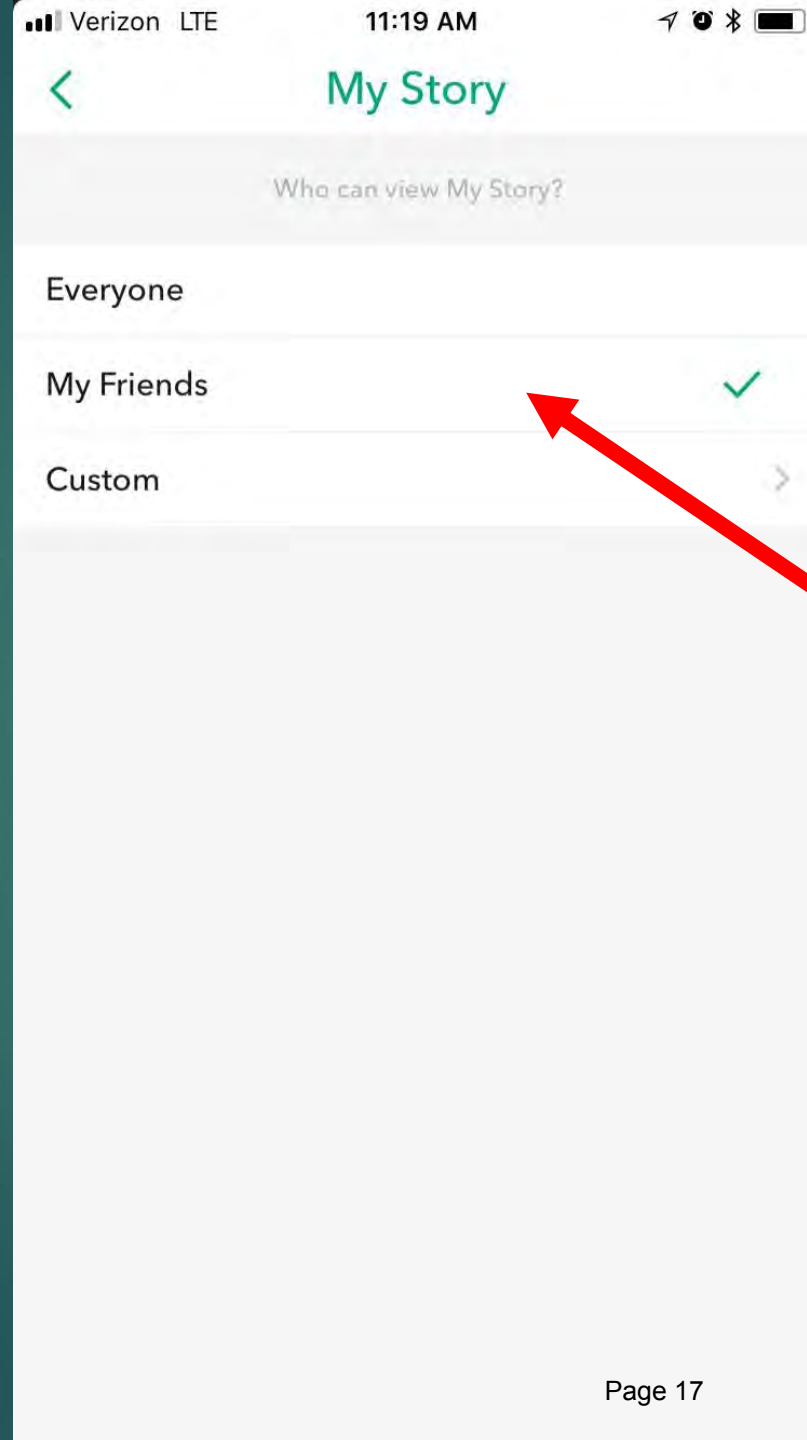
My Friends



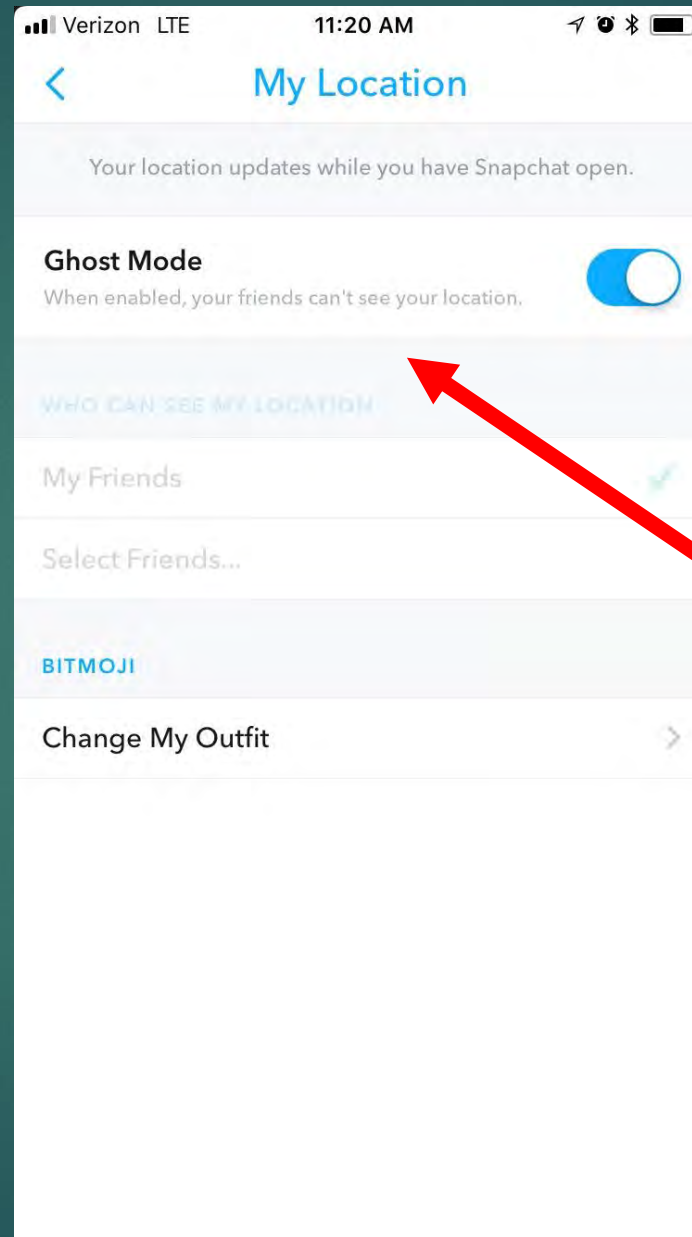
Limit Who Can Contact to "My Friends"



Limit Who  
Can View  
Content to  
“My Friends”



SnapChat  
Allows Others to  
See Where Your  
Phone is....Stop  
That by  
Enabling  
“Ghost Mode”



Students Must watch WHO  
they Meet Online,

They Must also Watch  
WHAT they Communicate Online;

# Cyber STALKING

# Cyber STALKING

N.C.G.S. 14-196.3

- ▶ It is a CRIME to do any of the following:
  - ▶ *Use Electronics (Phone, Ipad etc) To:*
    - ▶ *Threaten or Extort*
    - ▶ *Send a False Statement*
    - ▶ *To Harass Someone or Cause Another to Harass Someone*
      - ▶ *Examples: Bullying*

## WHAT SHOULD I DO IF I RECEIVE A Message Like this?

- Do NOT Send Message to Anyone!
  - You could be charged with a crime;

- Delete the Message!
  - Do NOT forward!

- Speak with a Trusted Adult

- Report to a School Administrator or SRO

# Sexting



# WHAT IS SEXTING ?

**Sexting is the act of sending sexually explicit messages by electronic means.**

- ◆ **Photos**
- ◆ **Consent Does Not Matter**



# CONSEQUENCES



- **Just Possession of Photos with minors engaging in sexual acts is a Felony;**
  - **Prison**
  - **Sex Offender Registration**
- **Disclosing Private Images to Others is another crime;**

We Want to See Students Here....



# NOT HERE....



# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items - No Action

### **SUBJECT:**

FY 20 Capital Improvement Discussion

### **BRIEF SUMMARY:**

This is a continuing discussion from the Board Retreat that took place on February 23, 2019. This discussion will go over the proposed Capital Improvement Projects to be funded through Capital Reserve funds as well as all Capital Improvement Projects that were requested for fiscal year 2020 by the County and School systems.

### **REQUESTED ACTION:**

Receive input.

### **EXPECTED LENGTH OF PRESENTATION:**

15 Minutes

### **SUBMITTED BY:**

Kristin Jones, Budget and Performance Manager  
Susan Fearrington, Finance Director  
Kyle Bilafer, Area Manager of Operations

### **BUDGET AMENDMENT REQUIRED:**

No

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- CIP Discussion FY 20

**Cabarrus County**  
**FY 20 Capital Improvement Projects**

<b>Capital Improvement Projects</b>	<b>FY 2020 Capital Reserve Funding request</b>		
Capital Reserve Balance as of 2-21-2019	\$	277,552	
15% Fund Balance Transfer		12,303,742	
Closeout of MPMS & partial closeout of ROES		2,281,546	
Capital Reserve Balance as of 2-21-2019		<b>14,862,840</b>	
		<b>Proposed for FY 2020</b>	<b>Moved out</b>
			<b>Reduced</b>
<b>County Projects</b>			
Arena Kitchen Goods Storage Building Replacement		161,000	
Camp Spencer Vending Machine Building and Overlook		225,000	200,000
Courthouse Expansion / Relocation		6,419,000	
Frank Liske Park Water Line Replacements		360,000	
Enterprise Physical Security		300,000	
Governmental Center Roof & Skylight Replacement		775,000	
Training and Firing Range Renovations		1,700,000	
Operations Center Renovations		850,000	815,000
<b>County Projects Subtotal</b>		<b>10,790,000</b>	
<b>School Projects</b>			
3 Activity Buses - CCS		200,000	100,000
Replace Electrical Service at MPES - CCS		568,700	
Security Cameras - CCS		415,246	300,000
Mobile Units - CCS		2,400,000	
Building 2000 Re-roof- RCCC		300,000	
<b>School Projects Subtotal</b>		<b>3,883,946</b>	
<b>Total of all project requests</b>		<b>14,673,946</b>	
<b>Unallocated balance in Capital Reserve Fund</b>		<b>188,894</b>	

**FY 20 Projects Requested - Deferred Funding Proposed**

<b>County Projects:</b>	
Arena Midway Stage and Dining Deck	540,000
Arena Pave Front Overflow Lot	270,000
Elma C. Lomax Incubator Farm Utility Planning and Installation	1,000,000
Express Voting Machines	198,000
Fiber Infrastructure Improvement	300,000
Governmental Center ADA Restroom Renovations	229,050
Northeast Cabarrus Radio Tower	160,000
Jail Annex HVAC Replacement	210,000
Frank Liske Park - Mini-golf, restrooms, concessions, and office building	1,350,000
Frank Liske Park Artificial Turf for Fields at Existing Soccer Complex	2,100,000
Frank Liske Park Multi-Projects	3,390,000
Governmental Center Fitness Room Shower and Changing Room	515,000
Governmental Center G Level Parking Deck Sealing	210,000
Land Banking Funding	2,000,000
<b>School Projects:</b>	
Kannapolis Middle Covered Walk	500,000
New Middle School - Architects and Engineer	1,950,000
CBTC A/C Unit Replacement - RCCC	250,000
A.L. Brown Ceiling Tile and Grid Replacement	310,000
A.L. Brown Football Stadium ADA/Drainage	175,000
A.L. Brown HVAC Mechatronics Lab	300,000
A.L. Brown Replace Cannon Gym	200,000
A.L. Brown Roof Replacement	250,000
A.L. Brown Upgrade Electric Service	200,000
RCCC Trinity Church Rd Property Acquisition	350,000
Bethel Elementary School Roof Replacement	1,023,660
Bethel Elementary School HVAC Replacement	3,412,200
C.C. Griffin Middle School HVAC Replacement	3,412,200
C.C. Griffin Middle School Roof Replacement	1,364,880
Central Cabarrus High School Casework Replacement	568,700
Central Cabarrus High School Partial HVAC Replacement	1,649,230
Central Cabarrus High School Roof Replacement	1,364,880

Concord High School Electrical Distribution Replacement	939,987
Concord High School Fire Academy	2,068,000
Concord High School Partial HVAC Replacement	796,180
Concord High School Roof Replacement	1,649,230
Concord High School Stadium Renovation	2,068,000
Cox Mill High School Land and Parking	1,034,000
Concord Middle School Partial HVAC Replacement	682,440
Concord High School Field House Storage	1,774,344
Demo Mary Francis Wall 1936 Building	768,000
Harrisburg Elementary School HVAC Replacement	3,412,200
Jay M. Robinson High School Turf Field	710,875
Mt. Pleasant Elementary School Roof Replacement	1,046,408
Mt. Pleasant High School Casework	682,440
Mt. Pleasant High School Parking and Drive Replacement	1,819,840
Mt. Pleasant High School Turf Field	710,000
Multiple School School Turf Field	625,000
Northwest Cabarrus High School Casework Replacement	568,700
Northwest Cabarrus High School Electrical Distribution System	943,781
Northwest Cabarrus High School Gym Wall	1,137,400
Northwest Cabarrus High School HVAC Replacement	3,980,900
Northwest Cabarrus High School Office Renovation	2,035,150
Northwest Cabarrus High School Paving Replacement	672,865
Northwest Cabarrus High School Stadium Renovation	2,068,000
Northwest Cabarrus Middle School Athletic Field Construction	682,440
Northwest Cabarrus Middle School Casework	739,310
Northwest Cabarrus Middle School HVAC Replacement	3,980,900
New Downtown Elementary	4,000,000
New High School	300,000
Northwest Cabarrus HS Roof Replacement	1,264,643
Rocky Ricker Elementary School HVAC Rep	3,412,200
School Nutrition Program Office with Test Kitchen	568,700
Weddington Hills Elementary School HVAC Replacement	3,412,200
Weddington Hills Elementary School Roof Replacement	1,364,880
Wolf Meadows Elementary School HVAC Replacement	3,412,200
Wolf Meadows Elementary School Park and Drive Replacement	1,592,360
W.M. Irving Elementary Roof Replacement	1,364,880
Wolf Meadows Elementary School Roof Replacement	796,180
South Campus Building 1000 Renovation	657,000
South Campus Building 2000 Fire Alarm Replacement	112,000
RCCC South Campus Energy Efficiency Upgrades	110,000
Building 2000 LRC Renovation	1,111,000
Forest Park Elem. Front Entrance	300,000
Fred L. Wilson Elementary Repaving	200,000
CBTC Annex Motorsports Program - RCCC	756,000
<b>Deferred Funding Total</b>	<b><u>92,083,433</u></b>



# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Cabarrus County Schools - Increase Funding for 124 New Charter School Students Based on the Better of 1st or 2nd Month ADM Count

### **BRIEF SUMMARY:**

Cabarrus County Schools has provided a memo to request additional funding for the 124 new charter schools students for budget year FY 2019. A memo is attached. School Systems are required to pass funds from the school system based on the location of the child. Funding this request will allow the Schools to meet their obligation without reducing their funding for the current student enrolled in the County School System.

### **REQUESTED ACTION:**

Motion to approve the budget revision.

### **EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

### **SUBMITTED BY:**

Pamela S Dubois, Senior Deputy County Manager  
Kelly Klutz, Finance Director

### **BUDGET AMENDMENT REQUIRED:**

Yes

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- ▣ CCS Memo
- ▣ Budget Revision



January 26, 2019

The Honorable  
Mr. Steve Morris, Chair  
Ms. Diane Honeycutt, Vice Chair  
Ms. Liz Poole  
Mr. Lynn Shue  
Mr. Blake Kiger  
Cabarrus County Board of Commissioners  
65 Church Street, SE  
Concord, NC 28026

Re: Funding request for increased ADM for Charter Schools

Dear Board of Commissioners:

As a part of the initial budget process, funds were allocated to Cabarrus County Schools for 2,002 students who live in Cabarrus County but go to a Charter School. This number is based on the better of the 1<sup>st</sup> or 2<sup>nd</sup> month ADM of Charter Schools for the previous year.

As soon as Charter Schools report their numbers, an evaluation of the current year 1st month and 2nd month ADM is compared to previous year. With this analysis, we find that we are responsible for funding 142 more Charter School students in the current year.

Therefore, we are requesting the additional \$270,465.98 ( $142 * \$1,904.69$ ) of funding so that it can be passed along to the Charter Schools.

Sincerely,

Kelly H. Kruttz, CPA  
Cabarrus County Schools

Cc: Dr. Chris Lowder, Ms. Cindy Fertenbaugh, Mr. Rob Walter, Mrs. Carolyn Carpenter, Mr. Barry Shoemaker, Mr. David Harrison, Mrs. Holly Grimsley, Ms. Laura Blackwell

### Budget Revision/Amendment Request

Date:

Amount:

Dept. Head:

Department:

- Internal Transfer Within Department     
  Transfer Between Departments/Funds     
  Supplemental Request

Purpose: To appropriate funds from excess interest earning to cover the increase population of Charter School students for Cabarrus County Schools. The Schools incurred an additional 142 increase in Charter School Students. See attached memo.

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
001	6	1710/6701	Interest on Investments	500,000.00	270,466.00		770,466.00
001	9	7110/970117	Current Expense - Charter School - CCS	3,813,187.00	270,466.00		4,083,653.00
							0.00
							0.00
							0.00
							0.00
							0.00
							0.00
<b>Total</b>							0.00

**Budget Officer**

- Approved  
 Denied

**County Manager**

- Approved  
 Denied

**Board of Commissioners**

- Approved  
 Denied

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

County Manager - Odell Sewer and Right of Way Easements

### **BRIEF SUMMARY:**

Odell 73 Investments LLC is requesting right-of-way (.18 acre) and sewer easement (.30 acre) at Odell Elementary 3 -5. A letter of explanation from the LLC is attached. They have engaged an appraiser to determine the fair market value for this property. The Board of Education has approved this request. It has been standard practice that revenues for easements and right-of-ways be budgeted for the benefit of the affected school.

### **REQUESTED ACTION:**

Motion to approve the request for transportation right-of-way and sewer easements at Odell ES 3 - 5 as shown on the attached exhibit for an amount to be determined through professional appraisal. Motion to include approval for all revenues to be budgeted for the benefit of Odell ES and to authorize the County Manager to sign all required documents subject to review and approval by the County Attorney.

### **EXPECTED LENGTH OF PRESENTATION:**

1 Minute

### **SUBMITTED BY:**

Jonathan B. Marshall, Deputy County Manager

### **BUDGET AMENDMENT REQUIRED:**

No

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- Easement request and map



**BOARD OF EDUCATION AGENDA ITEMS**

**Meeting Date:** January 15, 2019

**Subject:** Sewer easement and Road ROW request

**Administrator Responsible:** Tim Lowder, PE

**Type of Agenda Item:**

- Action**
- Action (Consent)**
- Discussion**
- Information**
- Minutes**
- Presentation**
- Procedural**

**Preferred Date:** February 4, 2019

**Absolute Date:** February 11, 2019

**Fiscal Impact:**  YES  NO

**Dollar Amount:** \$ N/A

**Budgeted:**  YES  NO

**Budget Source:** Cabarrus County Capital Financing

**Recommended Action:** BOE Approve ROW request for sewer and roadway improvements

**A. Authority for This Action:**

Local Policy \_\_\_\_\_

Law or Rule \_\_\_\_\_

**B. Strategic Objective, Goal, or Need Addressed:**

**C. Summary:** The school system has been approached by Sherwood Development Group who is working with the City of Concord to extend sewer service to the southwest corner of Odell school road and NC Hwy 73 which require a ROW across the school property of Odell Elementary School. They also requested a ROW for the widening and left turn lane to be added to southbound Hwy 73. Attached is a map and a letter requesting the ROW. The ROW's will need to be signed by the Cabarrus County Commissioners as the property is currently owned by Cabarrus County for financing reason.

**D. Comments Received:**

Odell 73 Investments, LLC  
1151 Biscayne Drive  
Concord, NC 28027

January 14, 2019

**RE: Right of Way Acquisition and Easement for Off-Site Sewer at Odell Commons Development, the 23 acres development at 8825 Davidson Highway**

Dear Mr. Tim Lowder,

Thank you for your time on Tuesday, January 8<sup>th</sup> in discussing the current state of affairs at the Odell Commons development across the street from WR Odell Elementary/Odell 3-5 located at 1885 Odell School Road, Concord, NC 28027. In summary, Odell 73 Investments has been unable to attain off-site sewer from the neighbor directly to the south of WR Odell Elementary and any other means of gaining off-site sewer access is not possible unless done through Cabarrus County Schools' property.

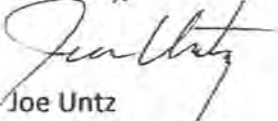
Odell 73 Investments, LLC is requesting from Cabarrus County Schools the following per the attached map:

- +/- 0.18 acres contiguous with Davidson Highway/Highway 73 for Right-of-Way Acquisition for road improvements being required by the North Carolina Department of Transportation (NCDOT) for the Odell Commons Development.
- +/- 0.30 acres for a 30' wide sanitary sewer easement as required by City of Concord across the Odell Elementary property to connect to the existing 8' sanitary sewer line.

We would propose that the purchase price paid by Odell 73 Investments for the aforementioned Right of Way and Easement be valued through a preferred appraisal expert recommended by Cabarrus County Schools. Odell 73 Investments would pay for the appraisal as well as any legal fees, and any other fees incurred as a result of these transactions. Odell 73 Investments will repair all damage caused by installation of the sewer such as damage to the sidewalk and bring said areas back to the same or better condition. The payment from Odell 73 Investments for the Easement and Right of Way would be paid upon recordation of each document with Cabarrus County Register of Deeds.

Thank you and we look forward to getting this wrapped up soon and commencing and completing construction during Summer Break 2019.

Sincerely,

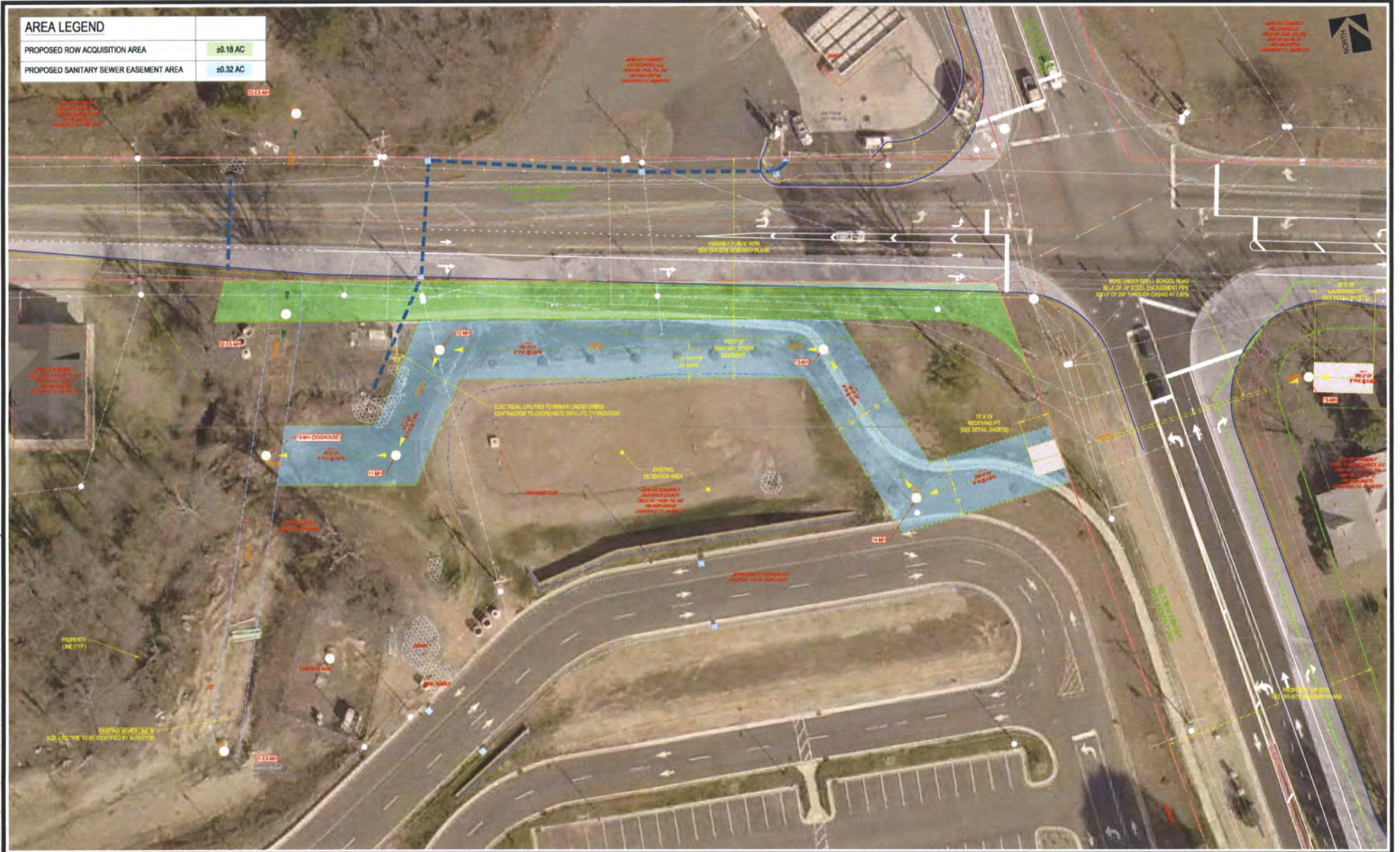


Joe Untz

[joe@sdgcarolinas.com](mailto:joe@sdgcarolinas.com)

704-309-1982





AREA LEGEND	
PROPOSED ROW ACQUISITION AREA	±0.18 AC
PROPOSED SANITARY SEWER EASEMENT AREA	±0.32 AC

**BGE** 121 W. TRADE STREET, SUITE 1030  
 CHARLOTTE, NC 28202  
 www.bgeinc.com  
 NC LICENSE #C-4397

ODELL CORNERS - OFF-SITE SANITARY SEWER CONCEPTUAL EXHIBIT

DATE: 1/14/2019  
 SCALE 1" = 20'

THIS DOCUMENT, TOGETHER WITH THE CONCEPTS AND DESIGNS PRESENTED HEREIN, AS AN INSTRUMENT OF SERVICE, IS INTENDED ONLY FOR THE SPECIFIC PURPOSE AND CLIENT FOR WHICH IT WAS PREPARED. REUSE OF AND IMPROPER RELIANCE ON THIS DOCUMENT WITHOUT WRITTEN AUTHORIZATION AND ADAPTATION BY BGE INC. SHALL BE WITHOUT LIABILITY TO BGE INC.

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

County Manager - Offer to Purchase County Property off Bradford Road

### **BRIEF SUMMARY:**

The County received an offer to purchase approximately 4 acres off Bradford Road. The acreage is part of a parcel purchased for the reservoir and the party making the offer owns an adjacent property. That adjacent property is a 4 acre parcel that was excluded from the original purchase. A letter with the offer and additional explanation is attached. This would need to follow the upset bid process if the Board of Commissioners wishes to consider it.

### **REQUESTED ACTION:**

Receive input.

### **EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

### **SUBMITTED BY:**

Jonathan B. Marshall, Deputy County Manager

### **BUDGET AMENDMENT REQUIRED:**

No

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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### **ATTACHMENTS:**

- ▣ Offer letter
- ▣ Upset Bid process
- ▣ Map

Cabarrus County  
Jonathan B. Marshall-Deputy County Manager  
65 Church St. S.  
Concord, NC 28026

02/05/2019

Mr. Jonathan B. Marshall,

We, Benjamin and Jennifer Loveland, own 4.02 AC with an address of 8383 Bradford Rd (PIN: 46828214680000). We have a 45' right of way access through the county owned land (PIN: 46920592570000) directly to the North of our property which allows us access from Bradford Rd onto our property. We would like to put forth considerable improvements to our right of way access road but since it is a right of way and not ours we are hesitant to perform these improvements. We would also like to control the property directly in front of us so the land in front of us will never be developed or the trees clear cut for any reason outside of our control.

This letter serves as an official offer letter to purchase the approximate 4.35 AC to the North of our existing property. We feel this will help clean up property boundaries for the county and allow us control over the use of the land thus providing a win-win situation for both parties. We have used GOOGLE EARTH to estimate the acreage (attached) to be 4.35 AC. We propose to extend the East boundary as a straight line off our property line to square up the final property boundary to link up with Bradford Rd. There is an existing tree line and old fence parallel to Bradford Rd approximately 25' off the asphalt to be the North boundary. We know this is not entirely accurate but will provide a starting point for this conversation.

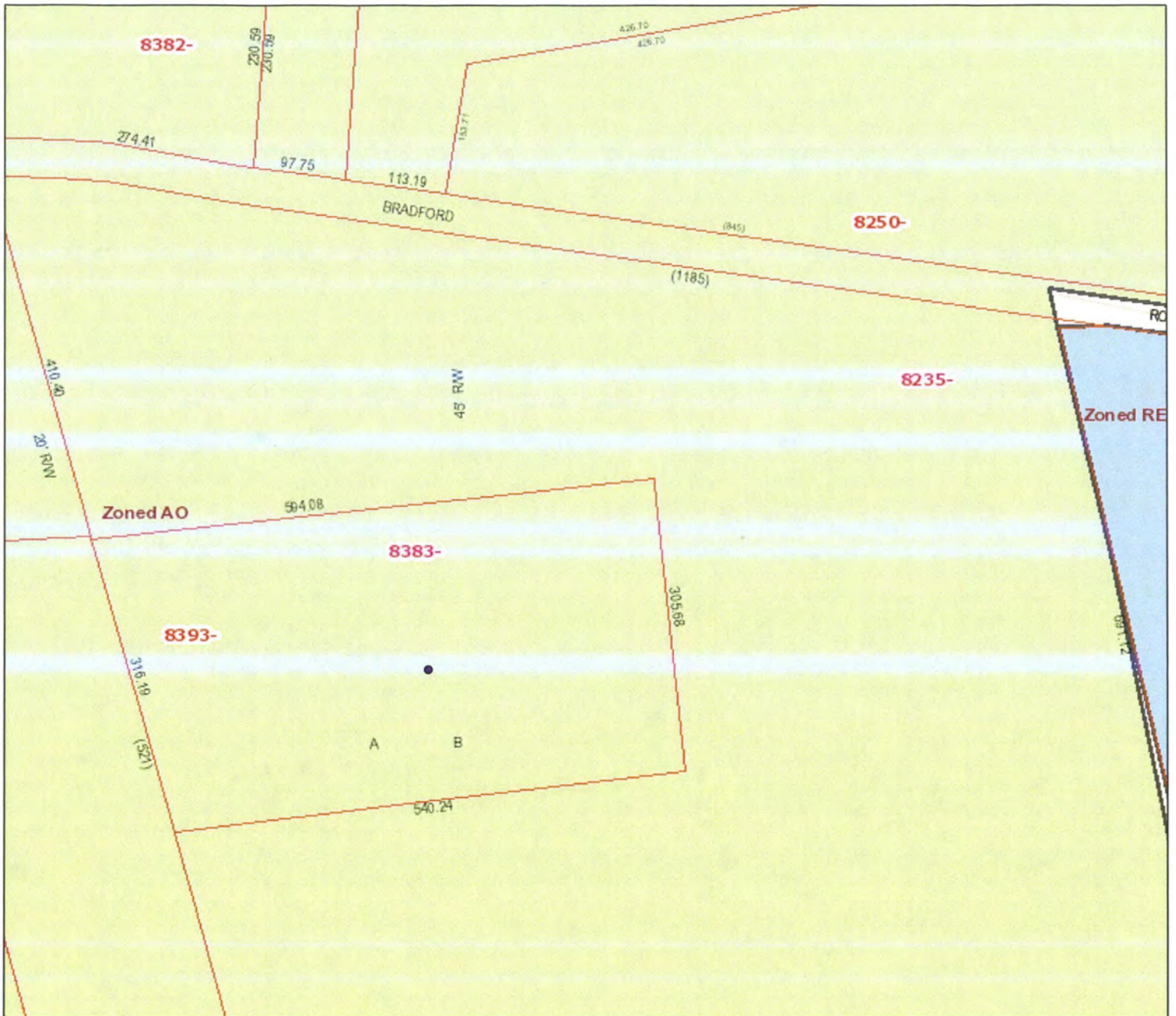
We propose to purchase the approximate 4.35 AC for \$15,000/AC. Please accept this as our formal offer for this parcel of land. Final amount will be determined after exact acreage can be evaluated by a survey and acceptance of our offer.

Sincerely,



Benjamin and Jennifer Loveland  
8383 Bradford Rd  
Concord, NC 28027  
704-998-1246  
Benjamin\_loveland@yahoo.com

# PIN 46828214680000

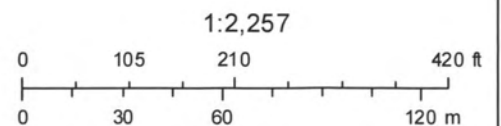


<b>Property Real ID</b>	03-011 -0021.10	<b>Parcel PIN</b>	46828214680000
<b>Physical Address:</b>	8383 BRADFORD RD CONCORD NC 28027	<b>Land Units</b>	4.02
<b>Owner Name 1:</b>	LOVELAND BENJAMIN DON	<b>Land Units Type</b>	AC
<b>Owner Name 2:</b>	LOVELAND JENNIFER ANN WF	<b>Land Value</b>	78320
<b>Mailing Address:</b>	8383 BRADFORD RD NW	<b>Building Value</b>	637050
<b>Mail City:</b>	CONCORD	<b>Assessed Value</b>	719080
<b>Mail State:</b>	NC	<b>Market Value</b>	719080
<b>Mail Zip:</b>	28027		



Cabarrus County shall not be held liable for any errors in the data represented on this record. This includes errors of omission, commission, concerning the content of the data, and relative positional accuracy of the data. The data cannot be construed to be a legal document. Primary sources from which this data was compiled must be consulted for verification of information represented on this map document.

Map Created By Cabarrus County IT Department  
Data Sources: Cabarrus County Land Records

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, © OpenStreetMap contributors, and the GIS User Community



**Legend**

-  8383 Bradford Rd
-  Polygon Measure

Ruler

Line Path **Polygon** Circle 3D path 3D polygon

Measure the distance or area of a geometric shape on the ground

Perimeter: 1,851.86 Feet

Area: 4.35 Acres

Mouse Navigation Save Clear

8383 Bradford Rd



EASEMENT

NORTH CAROLINA  
CABARRUS COUNTY

Prepared By: Jamonica Facyson  
Return To: Duke Energy Carolinas  
Attn: Jamonica Facyson  
182 Talbert Rd  
 Mooresville, NC 28117

THIS EASEMENT ("Easement") is made this 18 day of Aug, 2016  
("Effective Date"), from BENJAMIN DON LOVELAND and wife, JENNIFER ANN LOVELAND, ("GRANTOR," whether one or more), to DUKE ENERGY CAROLINAS, LLC, a North Carolina limited liability company ("DEC"); its successors, licensees, and assigns.

WITNESSETH:

THAT GRANTOR, for and in consideration of the sum of ONE DOLLAR (\$1.00), the receipt and sufficiency of which are hereby acknowledged, does hereby grant unto DEC, its successors, lessees, licensees, transferees, permittees, apportionees, and assigns, the perpetual right, privilege, and easement to go in and upon the land of GRANTOR situated in City of Charlotte, described as follows: PIN:46828214680000; containing 4.02 acres, more or less, and being the land described in a deed from Thomas Konicki and wife, Christine Konicki to Benjamin Don Loveland and wife, Jennifer Ann Loveland, dated April 8, 2016, and recorded in Deed Book 11867, Page 113, Cabarrus County Registry (the "Property"), LESS AND EXCEPT any prior out-conveyances, and to construct, reconstruct, operate, patrol, maintain, inspect, repair, replace, relocate, add to, modify and remove electric and/or communication facilities thereon including but not limited to, supporting structures such as poles, cables, wires, underground conduits, enclosures/transformers, vaults and manholes and other appurtenant apparatus and equipment (the "Facilities") within an easement area being twenty (20) feet wide, together with an area ten (10) feet wide on all sides of the foundation of any DEC enclosure/transformer, vault or manhole (the "Easement Area"), for the purpose of transmitting and distributing electrical energy and for communication purposes. The center line of the Facilities shall be the center line of the Easement Area.

The right, privilege and easement shall include the following rights granted to DEC: (a) ingress and egress over the Easement Area and over adjoining portions of the Property (using lanes, driveways and paved areas where practical as determined by DEC); (b) to relocate the Facilities and Easement Area on the Property to conform to any future highway or street relocation, widening or improvement; (c) to trim and keep clear from the Easement Area, now or at any time in the future, trees, limbs, undergrowth, structures or other obstructions, and to trim or clear dead, diseased, weak or leaning trees or limbs outside of the Easement Area which, in the opinion of DEC, might interfere with or fall upon the Facilities; and (d) all other rights and privileges reasonably necessary or convenient for DEC's safe, reliable and efficient installation, operation, and maintenance of the Facilities and for the enjoyment and use of the Easement Area for the purposes described herein.

TO HAVE AND TO HOLD said rights, privilege, and easement unto DEC, its successors, licensees, and assigns, forever, and GRANTOR, for itself, its heirs, executors, administrators, successors, and assigns, covenants to and with DEC that GRANTOR is the lawful owner of the Property and the Easement Area in fee and has the right to convey said rights and Easement.

IN WITNESS WHEREOF, this EASEMENT has been executed by GRANTOR and is effective as of the Effective Date herein.

Benjamin Don Loveland (SEAL)  
Benjamin Don Loveland  
Jennifer Ann Loveland (SEAL)  
Jennifer Ann Loveland

NORTH CAROLINA, Mecklenburg COUNTY

I, Julie Haugen, a Notary Public of Mecklenburg County, North Carolina, certify that Benjamin Don Loveland and Jennifer Ann Loveland personally appeared before me this day and acknowledged the due execution of the foregoing EASEMENT.

Witness my hand and notarial seal, this 18 day of Aug, 2016.



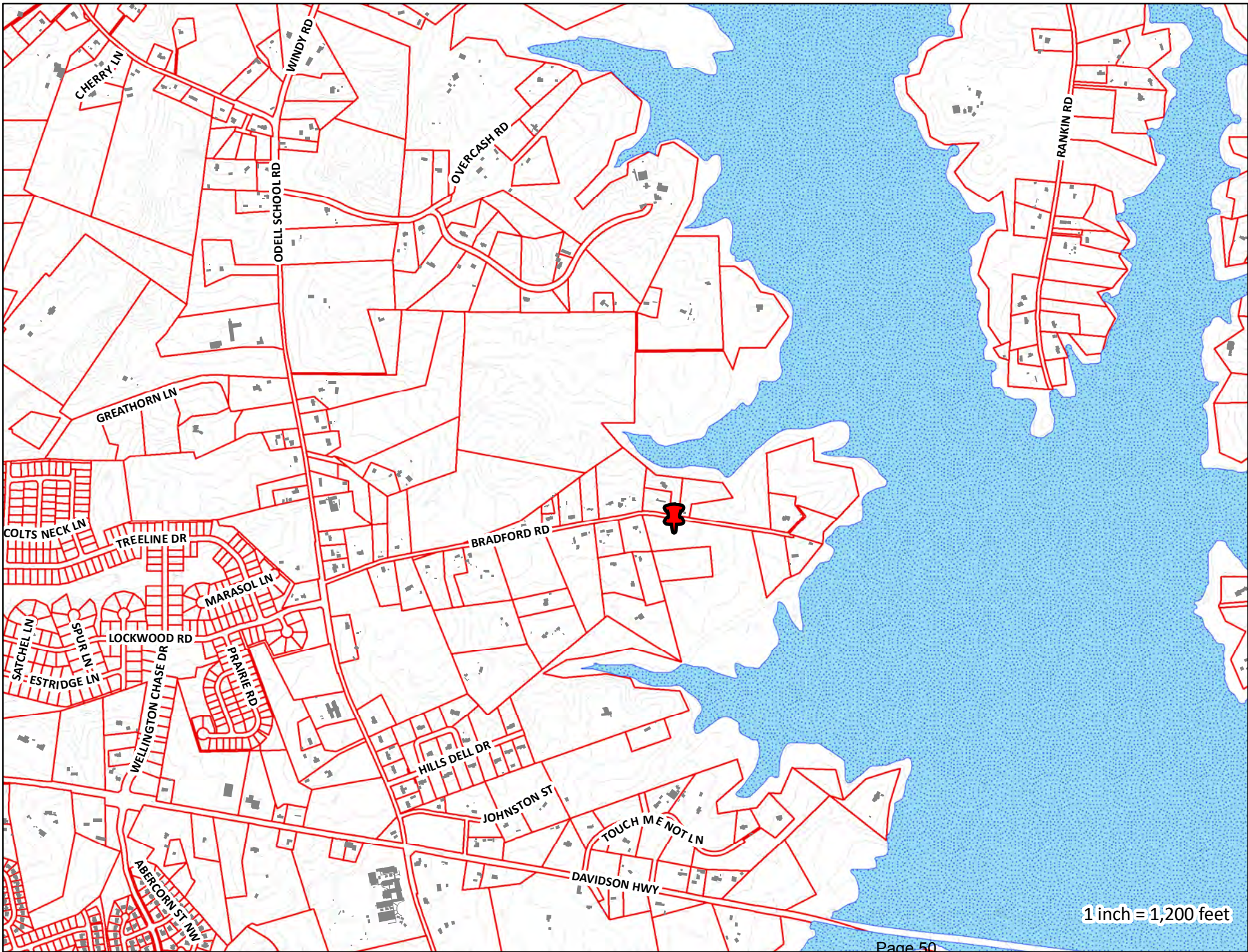
Julie Haugen  
Notary Public

My commission expires Jan 24, 2020



**§ 160A-269. Negotiated offer, advertisement, and upset bids.**

A city may receive, solicit, or negotiate an offer to purchase property and advertise it for upset bids. When an offer is made and the council proposes to accept it, the council shall require the offeror to deposit five percent (5%) of his bid with the city clerk, and shall publish a notice of the offer. The notice shall contain a general description of the property, the amount and terms of the offer, and a notice that within 10 days any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder. When a bid is raised, the bidder shall deposit with the city clerk five percent (5%) of the increased bid, and the clerk shall readvertise the offer at the increased bid. This procedure shall be repeated until no further qualifying upset bids are received, at which time the council may accept the offer and sell the property to the highest bidder. The council may at any time reject any and all offers. (1971, c. 698, s. 1; 1979, 2nd Sess., c. 1247, s. 25.)



1 inch = 1,200 feet

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

---

### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

County Manager - Water Line Easement at West Cabarrus High School

### **BRIEF SUMMARY:**

Cabarrus County Schools and the City of Concord have requested approval of a water line easement at West Cabarrus High School. This is a secondary water line from Harrison Drive NW.

### **REQUESTED ACTION:**

Motion to approve the Grant of a Permanent Easement between Cabarrus County and the City of Concord; and to authorize the County Manager to execute the document on behalf of Cabarrus County, subject to review or revisions by the County Attorney.

### **EXPECTED LENGTH OF PRESENTATION:**

1 Minute

### **SUBMITTED BY:**

Jonathan B. Marshall, Deputy County Manager

### **BUDGET AMENDMENT REQUIRED:**

No

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

---

### **ATTACHMENTS:**

▢ Easement Document and Map

Drawn By VaLerie Kolczynski, Attorney  
Return to City of Concord, ROD Box

STATE OF NORTH CAROLINA

COUNTY OF CABARRUS

PIN #5600-95-4892

Grant of Permanent Easement to  
CITY OF CONCORD

The undersigned Grantor, Cabarrus County, a body politic and political subdivision of the State of North Carolina, in consideration of payment to the Grantor of the sum of One Dollar, (\$1.00), the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell and release unto the City of Concord, a North Carolina municipal corporation ("Grantee"), its successors, assigns and licenses, the right, privilege, and easement to enter and re-enter at any time and to install, dig, build, erect, maintain, repair, rebuild, operate, and patrol one or more public utilities, over ground or underground, including but not limited to water infrastructure, underground pipes, utility lines, any and all related fixtures or appurtenances, the right to install, maintain and repair any and all utility structures including but not limited to water pipes and any and all related fixtures and appurtenances; the right to clear the easement area and keep it clear of brushes, trees, buildings, obstructions, and fire hazards; and the right to remove trees, if any, located beyond the limits of the easement area, but also which interfere with the utility easements or the easement area; the above described rights being incident to performance by the Grantee of its functions as a municipality or as the operator of a public utilities system, or the performance by any contractor, agent or licensee of the Grantee of any public utilities functions, the premises being located in No. 2 Township, Cabarrus County, North Carolina and described as:

Lying and being in the City of Concord, Number 2 Township, Cabarrus County, North Carolina, and lying south of the terminus of Harrison Drive NW (60' public right of way, Map Book 53 at Page 44), and being a portion of the property of Cabarrus County (Deed Book 12097 at Page 185), and being more particularly described as follows:

Beginning at a point in the terminus of Harrison Drive NW (60' public right of way, Map Book 53 at Page 44); said beginning point being S 87°54'50" E 130.58 feet from an existing #4 rebar at the southwest corner of CSH 2016-1 Borrower, LLC (Lot 461, Map Book 53 at Page 44; Deed Book 11967 at Page 313); thence from the POINT OF BEGINNING with the terminus of said Harrison Drive NW and with the southern line of Christopher S. Williams (Lot 460, Map Book 53 at Page 44;

Deed Book 12320 at Page 131) S 87°54'50" E (passing an existing nail on line at 29.49 feet, said existing nail being at the southeast corner of the terminus of said Harrison Drive NW) a total distance of 30.04 feet to a point; thence through the property of Cabarrus County (Deed Book 12097 at Page 185) the following twenty three courses and distances: 1) S 00°43'31" E 18.17 feet to a point (L1); 2) S 47°05'10" W 21.24 feet to a point (L2); 3) S 02°05'10" W 63.19 feet to a point (L3); 4) S 45°00'35" W 37.81 feet to a point (L4); 5) S 00°00'00" E 273.33 feet to a point; 6) S 45°00'00" W 45.27 feet to a point (L5); 7) S 00°00'00" E 501.94 feet to a point; 8) N 90°00'00" E 43.42 feet to a point (L6); 9) S 00°00'00" E 58.00 feet to a point (L7); 10) S 90°00'00" W 64.89 feet to a point (L8); 11) N 00°00'00" W 36.18 feet to a point (L9); 12) N 45°00'00" W 12.08 feet to a point (L10); 13) N 00°00'00" W 459.87 feet to a point; 14) S 90°00'00" W 8.00 feet to a point (L11); 15) N 00°00'00" W 20.00 feet to a point (L12); 16) N 90°00'00" E 8.00 feet to a point (L13); 17) N 00°00'00" W 47.78 feet to a point (L14); 18) N 45°00'00" E 45.27 feet to a point (L15); 19) N 00°00'00" W 273.33 feet to a point; 20) N 45°00'35" E 38.45 feet to a point (L16); 21) N 01°03'31" E 55.76 feet to a point (L17); 22) N 36°30'42" E 27.25 feet to a point (L18); and 23) N 00°43'31" W 6.35 feet (L19) to the POINT OF BEGINNING containing 0.755 ac and as shown on that survey map drawn by CESI and dated September 18, 2018 and attached as Exhibit "A" for further reference.

The Grantor, by the execution of this instrument acknowledges the plans for the above referenced project as it affects the remaining property have been fully explained to him/her or his/her authorized representative(s), and does hereby release the Grantee, its successors, and assigns from any and all claims for damages resulting from the construction of said project or from the past, present or future use of said premises herein conveyed for any purpose for which the said Grantee is authorized by law to subject the same.

Together with any and all rights normally incident thereto, and particularly the right of ingress and egress thereto from time to time as necessary for construction, reconstruction, enlargement and/or maintenance.

To have and to hold the same unto the City of Concord, its successors and assigns forever.

**This agreement shall not be interpreted to impose any duty on the City of Concord, its successors and assigns to install any utilities by any particular date or within any particular time frame.**

**This property right may be assigned by the Grantee, or its successors.**

The Grantor shall have the right to use the above-described strip for purposes not inconsistent with Grantees' full enjoyment of the rights hereby granted, provided that the Grantor shall not erect or construct any building or other structure thereon; maintain or permit any underground or over ground system of piping, poles or wiring within such strip; make any use of the facilities installed, buried, erected, or constructed thereon; or drill or operate any well or septic system within such strip, without the express written permission of the Grantee.

IN WITNESS WHEREOF these presents have been duly executed under seal by the Grantor on this, the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**GRANTOR:**

Cabarrus County, a body politic and political subdivision of the State of North Carolina

By: \_\_\_\_\_  
Stephen Morris, Chairman of the Board of County Commissioners

ATTEST:

\_\_\_\_\_  
Lauren Linker, Clerk to the Board

[SEAL]

This instrument has been preaudited in the manner required by the "Local Government Budget and Fiscal Control Act."

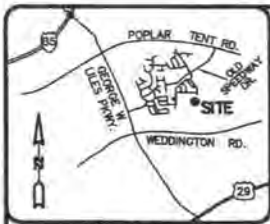
\_\_\_\_\_  
, Finance Director

**CABARRUS COUNTY  
STATE OF NORTH CAROLINA**

I, \_\_\_\_\_, a Notary Public of the aforesaid County and State, do hereby certify that Lauren Linker personally appeared before me this day and acknowledged that she is the Clerk to the Board of Commissioners for Cabarrus County and that by authority duly given and as the act of the body politic and political subdivision of the State of North Carolina, the foregoing instrument was signed in its name by its Chairman, sealed with its corporate seal and attested by her as its Clerk to the Board.

WITNESS my hand and notarial seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

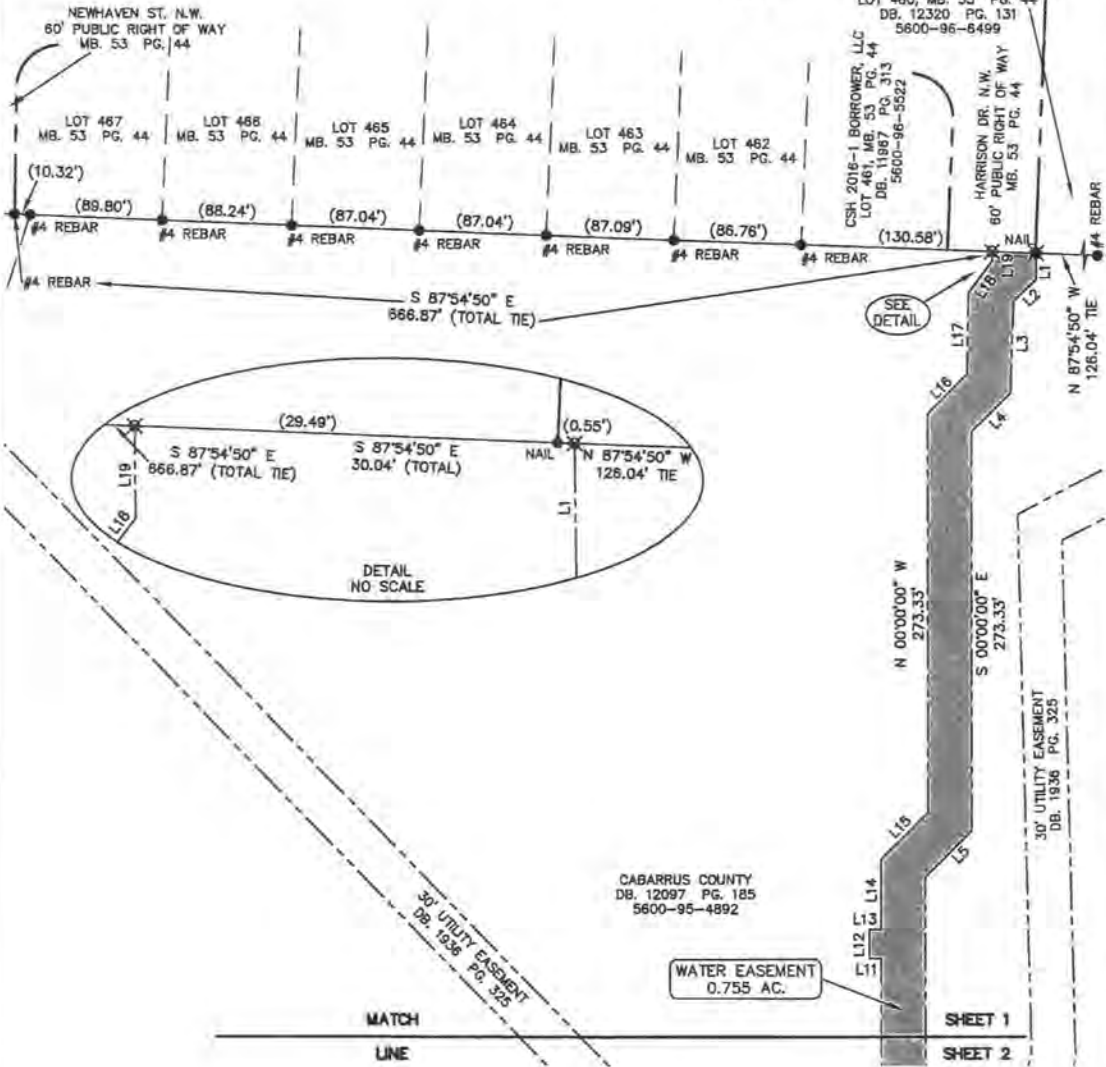
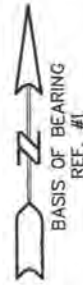
\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_



VICINITY MAP  
NOT TO SCALE

**LEGEND**

- EXISTING CORNER AS DESCRIBED
- ⊗ NO POINT SET
- EASEMENT
- TIE LINE
- BOUNDARY BY DEED OR PLAT
- RIGHT OF WAY



**NOTES:**

1. TRAVERSE ADJUSTED BY THE LEAST SQUARES ADJUSTMENT METHOD.
2. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
3. AREAS DETERMINED BY COORDINATE COMPUTATIONS.
4. NO UNDERGROUND UTILITIES WERE LOCATED WITH THIS SURVEY. BEFORE DOING ANY DIGGING CALL NC ONE-CALL. (1-800-632-4949).

**REFERENCES:**

1. LOCAL HORIZONTAL CONTROL AND DATUM PROVIDED BY ADVANCED DEVELOPMENT CONCEPTS, LLC ON 01-02-2018.
2. MAP TITLED "LAUREL PARK SUBDIVISION PHASE 4 MAP 3" BY PIEDMONT DESIGN ASSOCIATES, P.A.; DATED MAY 8, 2007; MB. 53 PGS. 44 & 45.



Sheet 1 of 2

EASEMENT SURVEY

PROPERTY OF: Cabarrus County  
 CITY OF CONCORD, NUMBER 2 TOWNSHIP, CABARRUS CO., NC

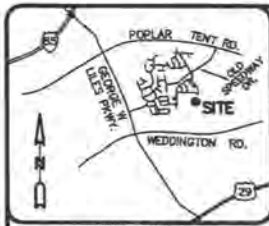
SURVEY FOR: CABARRUS COUNTY SCHOOLS

SCALE: 1 IN. = 100 FT. DATE: SEPTEMBER 18, 20 18

Civil - Geotechnical - Surveying  
 45 SPRING STREET SW CONCORD (704) 786-5404  
 CONCORD, NC 28025 FAX (704) 786-7454  
 N.C. FIRM LICENSE NO. 0-0253

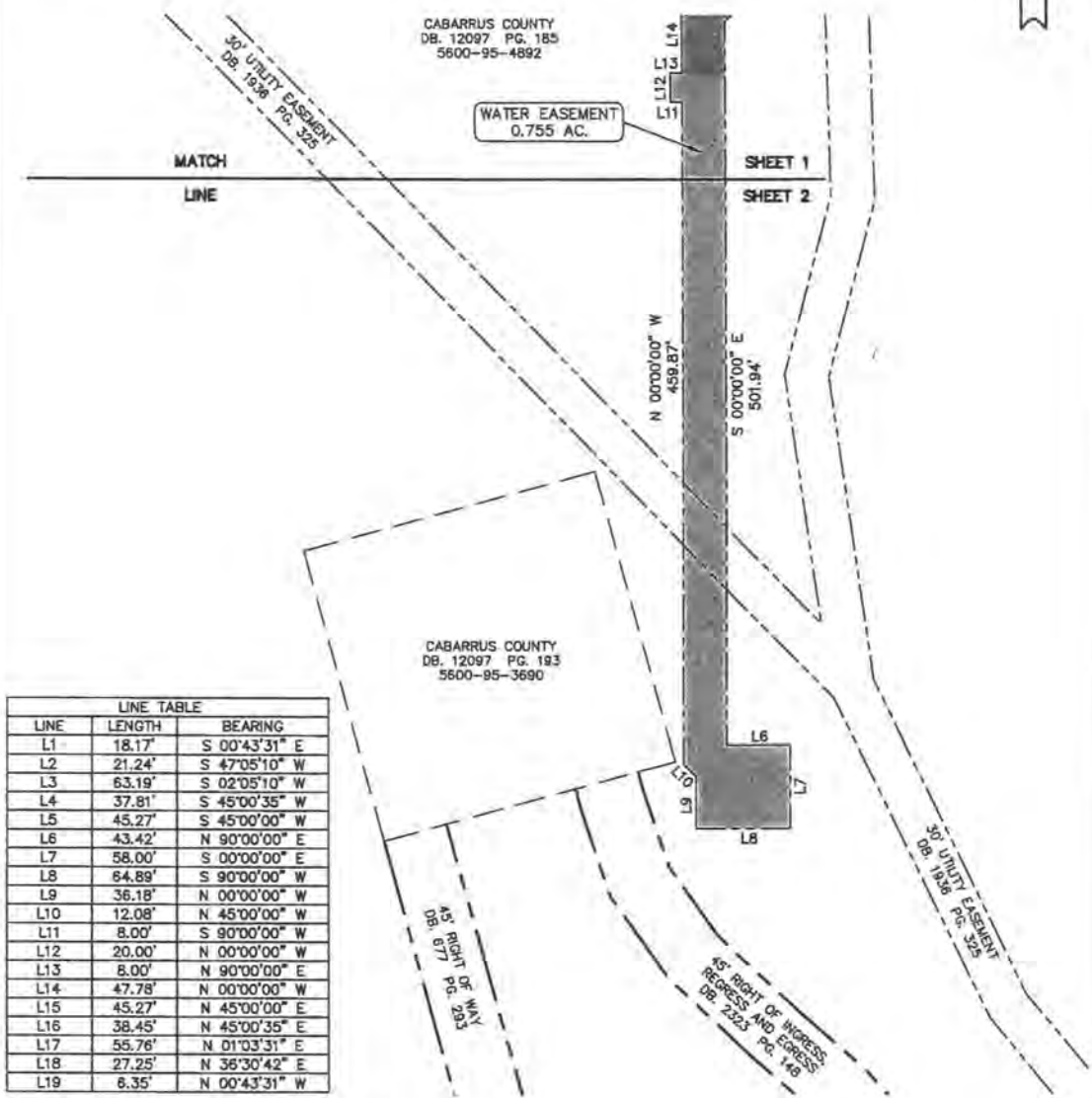
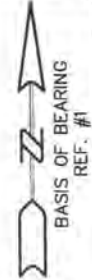
© CSI 2018 JOB NO.: 180006.000  
 ACAD FILE: WaterEasement.dwg





**LEGEND**

- EXISTING CORNER AS DESCRIBED
- ⊗ NO POINT SET
- - - EASEMENT
- - - TIE LINE
- - - BOUNDARY BY DEED OR PLAT
- - - RIGHT OF WAY



LINE	LENGTH	BEARING
L1	18.17'	S 00°43'31" E
L2	21.24'	S 47°05'10" W
L3	63.19'	S 02°05'10" W
L4	37.81'	S 45°00'35" W
L5	45.27'	S 45°00'00" W
L6	43.42'	N 90°00'00" E
L7	58.00'	S 00°00'00" E
L8	64.89'	S 90°00'00" W
L9	36.18'	N 00°00'00" W
L10	12.08'	N 45°00'00" W
L11	8.00'	S 90°00'00" W
L12	20.00'	N 00°00'00" W
L13	8.00'	N 90°00'00" E
L14	47.78'	N 00°00'00" W
L15	45.27'	N 45°00'00" E
L16	38.45'	N 45°00'35" E
L17	55.76'	N 01°03'31" E
L18	27.25'	N 36°30'42" E
L19	8.35'	N 00°43'31" W

- NOTES:**
1. TRAVERSE ADJUSTED BY THE LEAST SQUARES ADJUSTMENT METHOD.
  2. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
  3. AREAS DETERMINED BY COORDINATE COMPUTATIONS.
  4. NO UNDERGROUND UTILITIES WERE LOCATED WITH THIS SURVEY. BEFORE DOING ANY DIGGING CALL NC ONE-CALL (1-800-632-4949).

- REFERENCES:**
1. LOCAL HORIZONTAL CONTROL AND DATUM PROVIDED BY ADVANCED DEVELOPMENT CONCEPTS, LLC ON 01-02-2018.
  2. MAP TITLED "LAUREL PARK SUBDIVISION PHASE 4 MAP 3" BY PIEDMONT DESIGN ASSOCIATES, P.A.; DATED MAY 8, 2007; MB. 53 PGS. 44 & 45.

I, DAVID L. HAYWOOD, JR., CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY PERFORMED UNDER MY SUPERVISION (DEED RECORDED IN DB. 12097 PG. 185); THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES DERIVED FROM INFORMATION FOUND IN DEEDS AS SHOWN. THE PRECISION AS CALCULATED IS 1:42,400; AND THAT THIS SURVEY MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING (21 NCAC 36.1600).

WITNESS MY HAND AND OFFICIAL SEAL THIS 10th DAY OF SEPTEMBER, 2018

**PROFESSIONAL LAND SURVEYOR** LICENSE NO. L-4822

Sheet 2 of 2

EASEMENT SURVEY

PROPERTY OF: Cabarrus County  
 CITY OF CONCORD, NUMBER 2 TOWNSHIP, CABARRUS CO., NC

SURVEY FOR: CABARRUS COUNTY SCHOOLS

SCALE: 1 IN. = 100 FT. DATE: SEPTEMBER 18, 20 18

**CESI** Civil - Geotechnical - Surveying  
 45 SPRING STREET SW CONCORD (704) 786-5404  
 CONCORD, NC 28025 FAX (704) 786-7454  
 N.C. FIRM LICENSE NO. C-0263

© CESI 2018 JOB NO.: 180006.000  
 ACAD FILE: WaterEasement.dwg

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Emergency Management – Fire Services Overview: Consideration for Completion of Fire Manpower Program Proposal

### **BRIEF SUMMARY:**

Staff will provide an overview of County Fire Services and request consideration of expansion of the Fire Manpower Unit to 24-hour coverage as originally proposed during initial implementation of the program. The Fire Manpower Unit has been successful in supplementing the Volunteer Fire Departments' response to emergencies and assisting EMS during peak times. Staff analysis of call times show an opportunity to reduce vulnerability to our citizens by expanding to 24-hour coverage.

### **REQUESTED ACTION:**

Motion to approve the additional firefighter positions to the Fire Services portion of the Emergency Management Department to support 24-hour operations.

### **EXPECTED LENGTH OF PRESENTATION:**

30 Minutes

### **SUBMITTED BY:**

Steven Langer, Fire Marshal  
Jason Burnett, Emergency Planner  
Bobby Smith, EM Director  
Alan Burnette, Midland Fire Chief

### **BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

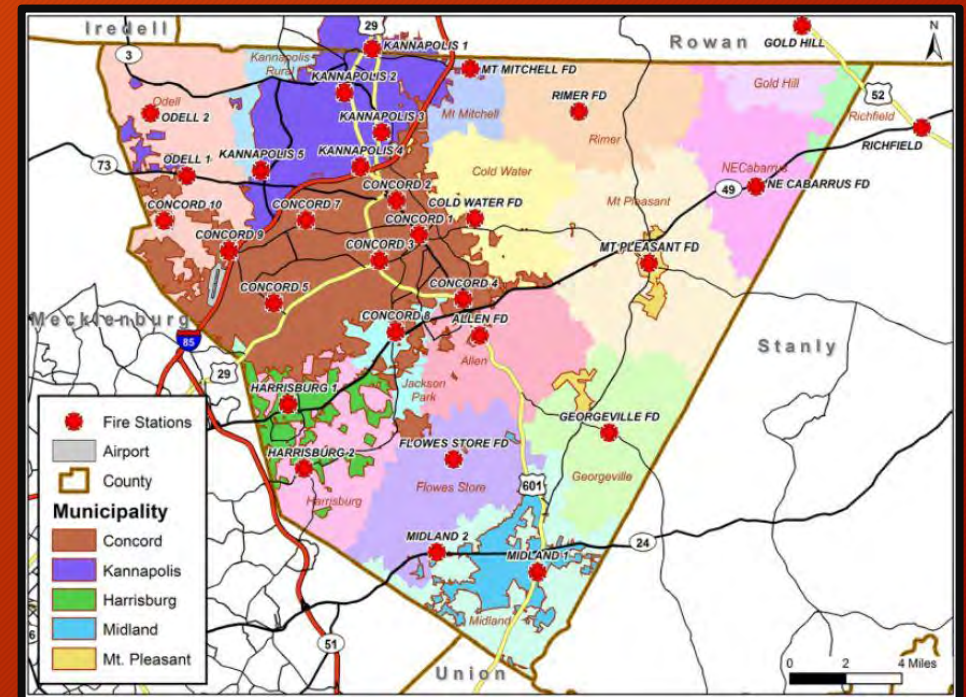
- ▢ PowerPoint Presentation

# Cabarrus County Fire Services

2019

# Where we were...

- Volunteer Fire Departments were mainly self sufficient through donations and fund raising activities
- Fire tax districts were established to provide consistent funding to fire departments
- In 2001, we had around 415 volunteers

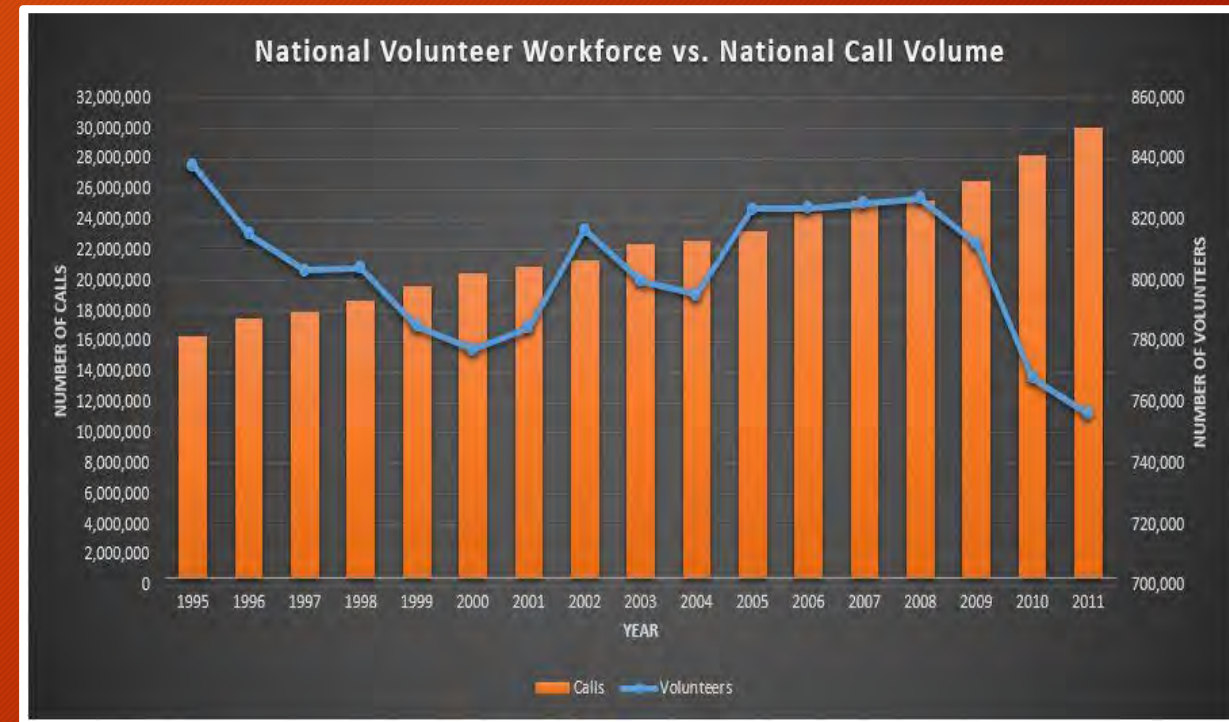


# Where we are...

- Service is provided by 10 in-county and 2 out-of-county departments along with our municipalities to cover portions of the county
- These departments are non-profit entities under contract with Cabarrus County to provide fire and first responder services
- Departments are now funded by their fire tax (can go up to 15 cents), sales tax revenues, and staffing grants from the County General Fund

# Where we are...

- Our departments currently show a total of 223 volunteers and 205 paid members
- Consistent with the state and national trends, volunteers are decreasing at a rate of 12% per year and departments are having to transition to combination departments of paid/volunteer members
- 151 of our firefighters are on multiple department rosters. Some departments have 40-50% of their members on multiple department rosters



# Where we are....

- Current fire service funding around \$5.8 million dollars
- A full-time paid fire service would be in excess of \$23 million for complete operational implementation
- Due to volunteer availability, the county established the staffing grant program and Squad 410 to assist the fire departments in putting more personnel on the scene of an incident
- Squad 410 was started as an 8am-5pm program with the intention on transitioning to a 24 hour staffing model



# Where we are....

- Currently, Squad 410 is on a 12 hour shift operating 7 days a week
- They provide additional manpower for all levels of emergency response and assist EMS during peak times in manning an EMS unit
- They have participated with the fire departments through training evolutions, hose testing, ISO inspections, equipment familiarization, and completed over 700 training hours in 2018
- Squad 410's call volume continues to increase



# Where we are....

- While a majority of calls for service are between 9am and 8pm system wide; we are seeing an increase for service in the 9pm-12am and 4am to 8am time frames
- We are also seeing increased response times from some service providers during these times, again a reflection on the national trend of decreased availability of volunteers
- A recent outside study for a municipal department noted the strain on putting an effective firefighting force on the scene in a timely manner. This is true for our service as well.

# Where do we go from here?

- Staff recommends 24 hour coverage for Squad 410
- Management requests development of a Fire Strategic Plan (next budget)
- Explore mergers and County/City joint operation opportunities
- Evaluate current grant and develop processes to increase staffing at fire departments



# Why 24 Hours for Squad 410?

- To provide additional manpower on incidents that require assistance and to provide an effective emergency force on scene
- To provide assistance in times when personnel coverage may be low and personnel availability is limited
- To continue to provide assistance to EMS as needed

# Costs

- If approved for remainder of current budget year, a one time cost of \$102,000.00 to include \$24,000.00 for new equipment and \$78,000.00 for new personnel is being requested
- New recurring operational costs for 24 hour program would be:
  - Personnel: \$314,258.00
  - Uniforms: \$1,000.00
  - Purchase Services: \$800.00
  - Dues: \$870.00
  - Total New Recurring Costs: \$316,928.00

# Questions and Discussion

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

---

### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

EMS - Zoll Cardiac Monitor Purchase

### **BRIEF SUMMARY:**

EMS was in the contract process to purchase new Phillips MRX cardiac monitors 2 years ago when Phillips discontinued their pre-hospital cardiac monitor program. Funding of \$550,111.00 was allocated for this purchase. These funds were placed in a multi-year holding fund to allow EMS time to identify another monitor option to meet our requirements. It took some time and research to identify another manufacturer of a product that met specific system needs. We have now identified the ZOLL X-series monitor as the product that meets system parameters.

### **REQUESTED ACTION:**

Motion to approve the purchase of (23) ZOLL X-series cardiac monitors, the required budget amendment and update the project ordinance as needed.

### **EXPECTED LENGTH OF PRESENTATION:**

10 Minutes

### **SUBMITTED BY:**

Jimmy Lentz, EMS Director

### **BUDGET AMENDMENT REQUIRED:**

Yes

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

---

**ATTACHMENTS:**

- ▣ Budget Amendment
- ▣ X Series Brochure



## Budget Revision/Amendment Request

Date: 2/14/2019

Amount: 16,000.00

Dept. Head: Kristin Jones

Department: 2730- EMS

- Internal Transfer Within Department     
  Transfer Between Departments/Funds     
  Supplemental Request

Purpose: EMS currently has \$550,111.00 in a multi-year line item from when our monitor purchase fell apart 2-3 years ago. We have researched and identified a monitor to fit our needs. We are ready to proceed with the purchase of (23) ZOLL X-series cardiac monitors. The purchase price for the ZOLL monitors will be \$566110.96. This leaves a difference of \$15,999.96. This budget amendment pulls funds from the AVAILABLE CRF account to the multi-year monitor account.

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
343	6	0000/6921/AVAIL	Cont From CRF-AVAIL	39,166.00		16,000.00	23,166.00
343	9	0000/9830/AVAIL	Other Improvements-AVAIL	99,744.00		16,000.00	83,744.00
							0.00
343	6	2730/6921/MONIT	Cont From CRF-MONIT	550,111.00	16,000.00		566,111.00
343	9	2730/9860/MONIT	Equipment and Furniture-MONIT	550,111.00	16,000.00		566,111.00
							0.00
							0.00
							0.00
<b>Total</b>							0.00

**Budget Officer**

- Approved  
 Denied

**County Manager**

- Approved  
 Denied

**Board of Commissioners**

- Approved  
 Denied

\_\_\_\_\_  
*Signature*

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*Date*

X Series®

ZOLL®



# Xtremely

Small, Light, and Powerful

## ALMOST TWO TIMES LIGHTER THAN OTHER POPULAR MONITORS

The X Series® extends the ZOLL legacy of smaller, lighter monitor/defibrillators. Pick it up. Feel the difference. At 11.7 pounds (6 kilograms), chances are it's twice as light as what you're carrying today.

## MOST COMPACT, BEST EQUIPPED

Starting with a high-contrast, color display that simultaneously shows up to four waveforms, the X Series delivers the capabilities you expect from a full-featured monitor—for neonates through adults. And it can be equipped with a complete selection of best-in-class parameters, including Masimo® rainbow® SET pulse CO-Oximetry, Microstream® etCO<sub>2</sub>, and Welch Allyn NIBP, as well as three invasive pressures and two temperature channels.

## A MILITARY HERITAGE OF DURABILITY

Driven by requirements from air transport and field military operations, the X Series raises the bar for durability. It complies with standards requiring normal operation following multiple drops from a height of 6.5 feet (2 meters). An industry-best ingress protection rating of IP55 means no other monitor is protected from dust particles and water like the X Series.

A person in a white uniform is holding a ZOLL X Series monitor on a stretcher. The monitor is compact and rugged, designed for portability. The background is a plain, light-colored wall.

# Because Medics Carry More These Days



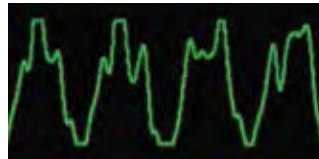
Compact and lightweight without compromise in performance or durability

## MAKING THE DIFFERENCE FOR PATIENTS

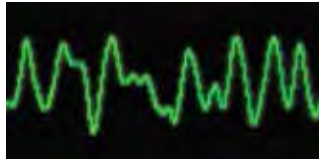
When several Arizona fire departments deployed Real CPR Help® in combination with scenario-based training, the likelihood of patient survival nearly tripled.<sup>1</sup> In a study involving 373 medics and 484 patients, the odds of surviving cardiac arrest were 2.7 times better when Real CPR Help was used.

## A TOOL FOR SHORTENING PAUSES

Pre-shock pauses as brief as 10 seconds adversely impact survival.<sup>2</sup> The X Series is equipped with industry-exclusive See-Thru CPR® filtering technology. It reduces the length of interruptions by removing compression artifact so that medics can look for organized electrical activity during compressions.



Unfiltered ECG signal during CPR



Signal filtered by See-Thru CPR

## BECAUSE CPR IS A TEAM ACTIVITY

Not everyone who works a code is an experienced responder. The CPR Dashboard™ is a real-time window that gives team leaders an at-a-glance look at the quality of first-responder CPR.

## EVEN THE BEST RESCUER FATIGUES

Real CPR Help prompts by exception. This means when medics are fresh and delivering good compressions, it is silent. With repetitive two-minute cycles, even the most fit medic tires. When compressions fall out of range, it gently guides rescuers back to high-quality, Guidelines-compliant compressions.



**“Poor-quality CPR should be considered a preventable harm.”**

—AHA Consensus Statement on CPR Quality<sup>3</sup>

<sup>1</sup> Bobrow BJ, et al. *Annals of Emergency Medicine*. 2013;62:47-56.

<sup>2</sup> Cheskes, et al. *Circulation*. 2011;124:58-66.

<sup>3</sup> Meaney PA, et al. *Circulation* 2013;128:417-35.



CPR Dashboard is a real-time window on the key metrics of high-quality compressions.

## 12 LEADS ON SCREEN IMPROVE TRACE QUALITY

The STEMI View lets medics see trace quality simultaneously in all leads. Confidently record a 12-lead ECG with the expectation it will be clean the first time and ready for transmission without delay.



STEMI View

## A WINDOW TO SERIAL ECG CHANGES

Unstable patients call for extraordinary vigilance. Substantial ST changes can occur between the initial transmission and arrival at the hospital.<sup>4</sup> The Split-Screen View keeps medics on top of the situation by displaying the real waveform next to one that was previously acquired.



Split-Screen View

## QUICKER, MORE CONFIDENT DECISIONS

At 94% sensitivity for detection of early STEMI, the X Series 12-lead algorithm is unmatched by other popular monitors. Make that alert call knowing it is based on the best algorithm.

## OPEN ARCHITECTURE MAXIMIZES STEMI OPTIONS

The X Series puts medics in the best position to decide where to take a patient. Its open architecture means the X Series can transmit a 12-lead ECG into all of the leading STEMI and cardiology management systems.



# Reduce Time to Balloon with Advanced 12-Lead Capabilities

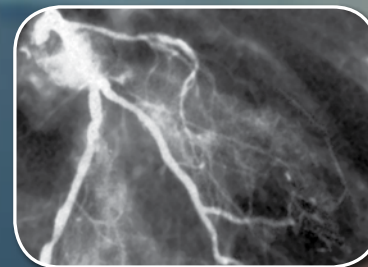
<sup>4</sup> Davis M, et al. *Prehosp Emerg Care* 2014;18:9-14.



Confident decisions from the field



12-leads—anywhere, anytime



Fast, efficient delivery to the cath lab



## DESIGNED WITH CHARTING IN MIND

The X Series is designed with electronic charting in mind. It redefines what a monitor should send to the patient record. The built-in memory ensures a complete patient record is transmitted by capturing 24 hours of event (ECG and vital signs) or trend data, and up to 1,000 time-stamped events.

## TRANSMIT AT THE SPEED OF WIFI

The X Series simplifies transmission. Its standard communication package makes wires, cables, and “dongles” a thing of the past. It is the first monitor to integrate WiFi, Bluetooth, and USB capabilities as part of the standard communication package.



## AN OPEN, UNIVERSAL ePCR SOLUTION

The X Series speeds medic charting by seamlessly uploading the event record. It automatically populates patient data fields in many of the leading ePCR systems. ZOLL's open interface software development kit (SDK) is available to all ePCR vendors.



# Simplify Charting with Advanced Communication



The X Series redefines how a monitor should work with your charting system.

# Big Screen Small Device

## X Series

View up to four waveforms of your choice. Switch from a brilliant color display to either high-contrast black-and-white or night-vision mode to ensure visibility under extreme conditions.

Visual Alarm Indicator

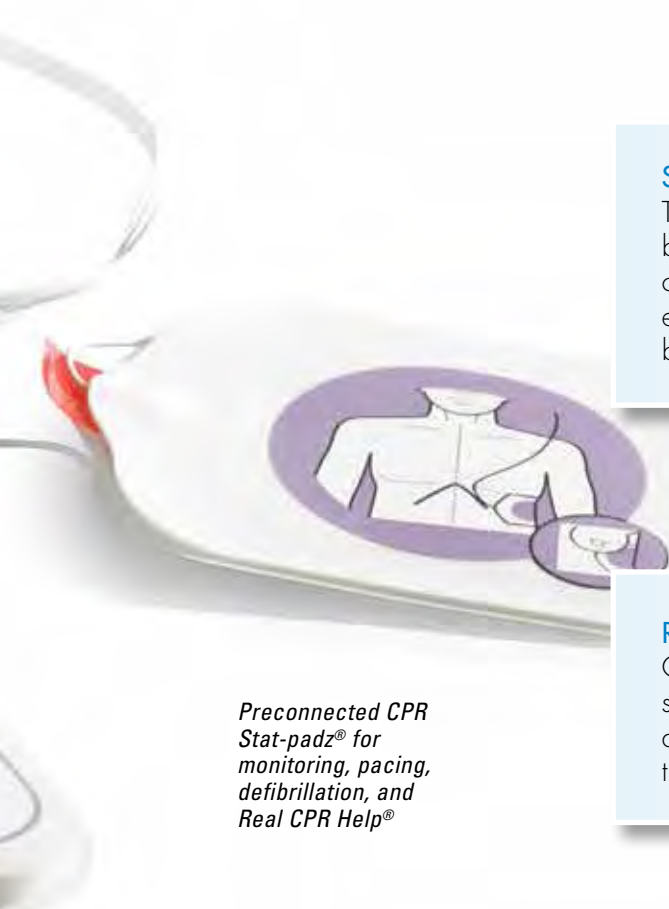
Oridion  
Microstream®  
Capnography

Masimo® rainbow® SET  
Pulse CO-Oximetry



Ready-for-Use Indicator

Welch Allyn NIBP with Sure BP® and SmartCuf®



Preconnected CPR Stat-pad® for monitoring, pacing, defibrillation, and Real CPR Help®

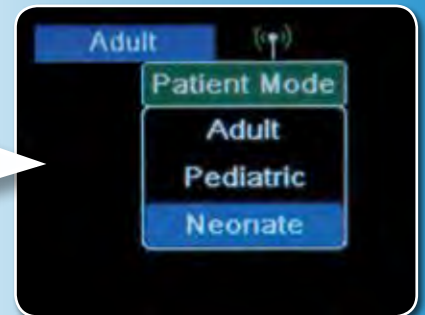
### Resuscitation View

You get unequalled support for CPR. Display CPR Dashboard along with the real-time depth indicator and the filtered ECG that See-Through CPR provides.



### Patient-Specific Settings

Select the mode—Adult, Pediatric, or Neonate—and the alarm thresholds and energy levels will automatically adjust.



### SurePower System

The lithium-ion SurePower™ II battery delivers six hours of continuous run time. That's enough power for even the busiest EMS operation.



### RescueNet® Code Review

Conduct post-event analysis in support of QA, training, and documentation programs with this unparalleled software tool.



# Impacting Outcomes Link by Link



## EARLY INTERVENTION

Immediate defibrillation is the single most important factor in saving an SCA victim's life. ZOLL's LifeVest® Wearable Defibrillator is the ultimate early intervention for high-risk patients.



## EARLY ACCESS

A timely 911 response is critical to survival. ZOLL's RescueNet® suite of call management products helps ensure the right resources get to the right place ASAP.



## EARLY CPR

More than half of arrests involve non-shockable rhythms. Delivering consistent, high-quality CPR, whether manually using Real CPR Help or mechanically with the AutoPulse®, is the basis of treatment for these patients.



## EARLY DEFIBRILLATION

Patients benefit when AEDs are deployed. While the AED Plus® brings simplicity to the public responder, the AED Pro® delivers the durability expected for the first responding BLS provider.



## EARLY ACLS

Whether it is ZOLL's biphasic waveform, which is superior in high-impedance patients, an external pacing waveform that captures twice as often at half the current, or best-in-class patient monitoring, ZOLL ensures providers are equipped to deliver the best care possible.



## POST-RESUSCITATION CARE

It is increasingly evident that post-resuscitation care is a vital link in the Chain of Survival. Goal-directed therapy, including fever control, fluid management, and glucose control, promise to improve outcomes. ZOLL has technologies for temperature management and delivery of fluid and blood products.

## ADVANCING RESUSCITATION. TODAY.®

ZOLL Medical Corporation | 269 Mill Road | Chelmsford, MA 01824 | 978-421-9655 | 800-804-4356 | [www.zoll.com](http://www.zoll.com)

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Microstream is a registered trademark of Oridion Medical 1987 Ltd.

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MCN EP 1312 0018

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# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Finance - Adjust Soil and Water Prime Farmland Funding to the Capital Improvement Plan Level

### **BRIEF SUMMARY:**

Per the FY19 Capital Improvement plan, the Soil and Water Prime Farmland funding level should be \$125,000. By reviewing the beginning FY19 available funds, a \$1,703.50 adjustment needs to be made to maintain the set aside funding for this program. Funding breakdown includes a \$100,000 budget for future easement purchases and a \$25,000 budget for legal fees. At this time, the legal fee line item should be increased \$1,703.50. Also included in the attached budget amendment are very small adjustments to the interest revenue, donation revenue, and Soil and Water District expenditure account for account tracking purposes.

### **REQUESTED ACTION:**

Motion to approve the Soil and Water adjustment of funds and approve the related budget amendment and project ordinance.

### **EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

### **SUBMITTED BY:**

Susan Fearington, Finance Director

### **BUDGET AMENDMENT REQUIRED:**

Yes

## COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

---

### ATTACHMENTS:

- Fd 460 Small Project Fund BA
- Fd 460 Small Projects Project Ordinance

**Budget Revision/Amendment Request**

Date:

Amount:

Dept. Head:

Department:

Internal Transfer Within Department     
  Transfer Between Departments/Funds     
  Supplemental Request

Purpose: to allocate funds for the Capital improvement plan funding of prime farmland soil per the FY 19 budget (per County Manager-this project should be budgeted at \$125,000 and each year the capital improvement funding will allocate additional funds up to \$125,000), and to adjust the budget for the interest and donations accounts.

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
460	6	0000-6023	Deferred Tax Collection	1,865,987.76		1,703.50	1,864,284.26
460	9	0000-9830	Other Improvements	2,227,922.19		1,703.50	2,226,218.69
460	6	3270-6023	Deferred Tax Collection	126,000.00	1,703.50		127,703.50
460	9	3270-9445	Purchased Services	142,000.00	1,703.50		143,703.50
460	6	3270-6701	Interest on Investment	1,693.00	0.20		1,693.20
460	6	3270-6805	Donations	2,898.00	0.06		2,898.06
460	9	3270-9698	Soil and Water District	70,145.50	0.26		70,145.76

**Budget Officer**

Approved  
 Denied

**County Manager**

Approved  
 Denied

**Board of Commissioners**

Approved  
 Denied

\_\_\_\_\_  
*Signature*

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*Signature*

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*Signature*

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*Date*

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*Date*

\_\_\_\_\_  
*Date*



## CABARRUS COUNTY SMALL PROJECTS CAPITAL PROJECT ORDINANCE

**BE IT ORDAINED**, by the Board of County Commissioners of the County of Cabarrus, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is for the purpose of accumulating and appropriating general fund revenues and federal and state grants funds received specifically for use by the appropriate Cabarrus County Department who has received the funds.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the guidelines as set forth by the federal and state government, Generally Accepted Accounting Principles (GAAP) and the budget contained herein.
- C. It is estimated that the following revenues will be available to complete capital projects as listed:

Board of Elections Department	
Interest on Investments	\$ 34,098
Contribution from General Fund	61,484
Contribution from Capital Reserve	150,000
	\$ 245,582
Register of Deeds Department:	
Register of Deeds Fees	\$1,543,669
Interest on Investments	43,351
Contribution from General Fund	77,505
	\$1,664,525
Soil and Water Department:	
Other Improvement Projects	\$218,441
EEP Contract	16,900
ADFP Grant	60,146
Drill Program Fees	13,100
Suther Farm Project	780,000
Hill Farm Project	116,516
Stewardship Fund	36,421
	\$1,241,524
Local Agricultural Preservation Projects:	
Contribution from General Fund	\$13,800
Deferred Farm Tax Collections	1,927,284
Deferred Farm Tax Interest	304,382
Interest on Investments	32,751
	\$2,278,217
<b>TOTAL REVENUES</b>	<b>\$5,429,848</b>

- D. The following appropriations are made as listed:

Board of Elections Department:	
Board of Elections Equipment and Furniture	\$ 245,582
Register of Deeds Department:	

Register of Deeds Automation & Preservation	\$ 1,664,525
Soil and Water Department:	
Other Improvement Projects	\$218,441
EEP Contract	16,900
ADFP Conservation Easement	60,146
Drill Repair & Maintenance	13,100
Suther Farm Project	780,000
Hill Farm Project	116,516
Stewardship	36,421
	<u>\$1,241,524</u>
Local Agricultural Preservation Projects:	
Other Improvement Projects	\$2,278,217
<b>TOTAL EXPENDITURES</b>	<b>\$5,429,848</b>
<b>GRAND TOTAL – REVENUES</b>	<b>\$5,429,848</b>
<b>GRAND TOTAL – EXPENDITURES</b>	<b>\$5,429,848</b>

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:
  1. The County Manager may transfer amounts between objects of expenditures and revenues within a function without limitation.
  2. The County Manager may transfer amounts up to \$100,000 between functions of the same fund.
  3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
  4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
  5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.
  6. The County Manager or designee may adjust debt financing from estimated projections to actual funds received.
  7. The County Manager may enter into and execute change orders or amendments to County construction contracts in amounts less than \$90,000 when the

appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.

8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.
9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriation to such agencies where G.S. 153 A-248(b), 259. 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129 (a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Projects Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Officer is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.
- c. Copies of this capital project ordinance shall be furnished to the Clerk to the Governing Board, and to the Finance Director for direction in carrying out this project.
- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund and the portion of the Capital Project Ordinance associated with the project is closed.

Adopted this 18<sup>th</sup> day of March, 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Finance - North Carolina Education Lottery Payment Applications for School Debt Service

### **BRIEF SUMMARY:**

Lottery proceeds in the amount of \$2,000,000 were included in the FY19 General Fund budget to pay a portion of debt service related to public school debt. Upon approval by the Cabarrus County Board of Education, the Kannapolis City Board of Education and the Cabarrus County Board of Commissioners, two payment request applications will be submitted to the Department of Public Instruction.

The Cabarrus County School application is for \$1,754,000 and the Kannapolis City School application is for \$246,000, for a total of \$2,000,000. A budget amendment and Capital Project Ordinance is included for your review.

### **REQUESTED ACTION:**

Motion to authorize the Cabarrus County Chairman to execute the Public School Building Capital Fund applications to release funds in the amount \$2,000,000 from the North Carolina Education Lottery Fund, and to approve the related budget amendment and updated Capital Project Ordinance.

### **EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

### **SUBMITTED BY:**

Susan Fearington, Finance Director

### **BUDGET AMENDMENT REQUIRED:**

Yes

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

---

**ATTACHMENTS:**

- ▣ CCS Application
- ▣ KCS Application
- ▣ Fd 320 Budget Amendment
- ▣ Fd 320 Project Ordinance

**APPLICATION  
PUBLIC SCHOOL BUILDING CAPITAL FUND  
NORTH CAROLINA EDUCATION LOTTERY**

Approved: \_\_\_\_\_

Date: \_\_\_\_\_

County: Cabarrus

Contact Person: Kelly Klutz

LEA: Cabarrus County #130

Title: Chief Financial Officer

Address: PO Box 388 Concord, NC 28026

Phone: 704-260-5705

Project Title: 2018-19 Debt Service for School Construction

Location: Concord, NC

Type of Facility: Debt Service for School Construction (LOBS 2015D)

North Carolina General Statutes, Chapter 18C, provides that a portion of the proceeds of the North Carolina State Lottery Fund be transferred to the Public School Building Capital Fund in accordance with G.S. 115C-546.2. Further, G.S. 115C-546.2 (d) has been amended to include the following:

- (3) No county shall have to provide matching funds...
- (4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects.
- (5) A county may not use monies in this Fund to pay for school technology needs.

As used in this section, "Public School Buildings" shall include only facilities for individual schools that are used for instructional and related purposes, and does not include central administration, maintenance, or other facilities. ***Applications must be submitted within one year following the date of final payment to the Contractor or Vendor.***

Short description of Construction Project: Debt Service for LOBS issued to build and renovate School buildings for Cabarrus County Schools #130

Estimated Costs:

Purchase of Land _____	\$ _____	
Planning and Design Services _____	_____	
New Construction _____	_____	
Additions / Renovations _____	_____	
Repair _____	_____	
Debt Payment / Bond Payment _____		1,754,000.00
<b>TOTAL _____</b>	<b>\$ _____</b>	<b>1,754,000.00</b>

Estimated Project Beginning Date: 7/1/18 Est. Project Completion Date: 6/30/19

We, the undersigned, agree to submit a statement of state monies expended for this project within 60 days following completion of the project.

The County Commissioners and the Board of Education do hereby jointly request approval of the above project, and request release of \$ 1,754,000.00 from the Public School Building Capital Fund (Lottery Distribution). We certify that the project herein described is within the parameters of G.S. 115C-546.

\_\_\_\_\_  
(Signature — Chair, County Commissioners) (Date)

\_\_\_\_\_  
(Signature — Chair, Board of Education) (Date)

**APPLICATION  
PUBLIC SCHOOL BUILDING CAPITAL FUND  
NORTH CAROLINA EDUCATION LOTTERY**

Approved: \_\_\_\_\_

Date: \_\_\_\_\_

County: Cabarrus

Contact Person: Will Crabtree

LEA: Kannapolis City Schools #132

Title: Director of Business Operations

Address: 100 Denver St. Kannapolis, NC

Phone: 704-938-1131

Project Title: 2018-2019 Debt Service for School Construction

Location: Kannapolis, NC

Type of Facility: Debt Service for School Construction (LOBS 2015D)

North Carolina General Statutes, Chapter 18C, provides that a portion of the proceeds of the North Carolina State Lottery Fund be transferred to the Public School Building Capital Fund in accordance with G.S. 115C-546.2. Further, G.S. 115C-546.2 (d) has been amended to include the following:

- (3) No county shall have to provide matching funds...
- (4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects.
- (5) A county may not use monies in this Fund to pay for school technology needs.

As used in this section, "Public School Buildings" shall include only facilities for individual schools that are used for instructional and related purposes, and does not include central administration, maintenance, or other facilities. **Applications must be submitted within one year following the date of final payment to the Contractor or Vendor.**

Short description of Construction Project: Debt Service for LOBS issued to build and renovate School buildings for the Kannapolis City Schools #132

Estimated Costs:

Purchase of Land _____	\$ _____	
Planning and Design Services _____	_____	
New Construction _____	_____	
Additions / Renovations _____	_____	
Repair _____	_____	
Debt Payment / Bond Payment _____		246,000.00
<b>TOTAL _____</b>	<b>\$ _____</b>	<b>246,000.00</b>

Estimated Project Beginning Date: 7/1/18 Est. Project Completion Date: 6/30/19

We, the undersigned, agree to submit a statement of state monies expended for this project within 60 days following completion of the project.

The County Commissioners and the Board of Education do hereby jointly request approval of the above project, and request release of \$ 246,000.00 from the Public School Building Capital Fund (Lottery Distribution). We certify that the project herein described is within the parameters of G.S. 115C-546.

\_\_\_\_\_  
(Signature — Chair, County Commissioners) (Date)

\_\_\_\_\_  
(Signature — Chair, Board of Education) (Date)

### Budget Revision/Amendment Request

Date:

Amount:

Dept. Head:

Department:

Internal Transfer Within Department     
  Transfer Between Departments/Funds     
  Supplemental Request

This amendment records the Public School Building Capital Lottery funds requested from the Department of Public Instruction. The funds will be used towards the FY19 school debt service payments. Cabarrus County Schools' portion is \$1,754,000 and Kannapolis City Schools' portion is \$246,000.

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
320	6	7210-6444	Lottery Proceeds	22,069,308.00	2,000,000.00		24,069,308.00
320	9	7210-9704	Cont'b to General Fund	20,419,308.00	2,000,000.00		22,419,308.00
							0.00

**Budget Officer**

Approved  
 Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

**County Manager**

Approved  
 Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

**Board of Commissioners**

Approved  
 Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*



## PUBLIC SCHOOL BUILDING CAPITAL PROJECTS FUND BUDGET ORDINANCE

**BE IT ORDAINED** by the Board of Commissioners of Cabarrus County, North Carolina that, Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is the various County construction and renovation related projects. Details of the projects are listed in section C. of this Project Ordinance.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the Generally Accepted Accounting Principles (GAAP) and the budget contained herein.
- C. It is estimated that the following revenues will be available to complete capital projects as listed.

Lottery Proceeds	\$24,069,308
Lottery Proceeds – Rowan County	300,000
<b>TOTAL REVENUES</b>	<b>\$24,369,308</b>

- D. The following appropriations are made as listed.

Debt Service	\$22,419,308
Construction	1,650,000
Debt Service – Rowan County	300,000
<b>TOTAL EXPENDITURES</b>	<b>\$24,369,308</b>

<b>GRAND TOTAL – REVENUES</b>	<b>\$24,369,308</b>
<b>GRAND TOTAL – EXPENDITURES</b>	<b>\$24,369,308</b>

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:

1. The Manager may transfer amounts between objects of expenditure and revenues within a function without limitation.
2. The County Manager may transfer amounts up to \$500,000 between functions of the same fund.
3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.
6. The Manager or designee may adjust debt financing from estimated projections to actual funds received.
7. The County Manager may enter into and execute change orders or amendments to construction contracts in amounts less than \$90,000 when the appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.
8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.
9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriations to such agencies where G.S. 153 A-248(b), 259, 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129(a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

### Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Director is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.

- c. Copies of this capital project ordinance shall be furnished to the Clerk to the governing Board, and to the Finance Director for direction in carrying out this project.
- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund and the portion of the Capital Project associated with the project is closed.

Adopted this 18<sup>st</sup> day of March, 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Finance - Balance of FY19 Construction Funding for West Cabarrus High School and Hickory Ridge Elementary School

### **BRIEF SUMMARY:**

The approved FY19 Capital Improvement Plan included funding for West Cabarrus High School and Hickory Ridge Elementary School. Funding of \$3,703,750 was provided by the Capital Reserve Fund and \$500,000 from the Lottery Fund. Details of the categories funded and a Lottery Application are included for your review.

### **REQUESTED ACTION:**

Motion to authorize the Cabarrus County Chairman to execute the Public School Building Capital Fund application to release funds in the amount of \$500,000 from the North Carolina Education Lottery Fund.

Motion to approve the Budget amendment and related Project Ordinances to record the final construction funding for the West Cabarrus High School and Hickory Ridge Elementary School projects.

### **EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

### **SUBMITTED BY:**

Susan Ferrington, Finance Director

### **BUDGET AMENDMENT REQUIRED:**

Yes

## COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

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### ATTACHMENTS:

- ▣ CIP Funded Projects
- ▣ Funding BA
- ▣ Lottery Application
- ▣ Fd 320 Project Ordinance
- ▣ Fd 369 Project Ordinance
- ▣ Fd 370 Project Ordinance
- ▣ Fd 450 Project Ordinance

**Cabarrus County**  
**FY19 Capital Improvement Funded Projects**  
**March 18, 2019**

<u>Project</u>	<u>Capital Reserve Amount</u>	<u>Lottery Amount</u>
<b>West Cabarrus High School:</b>		
Technology	\$ 196,750.00	\$ -
Equipment & Furniture	2,000,000.00	-
Start-up Costs/Construction	-	500,000.00
	2,196,750.00	500,000.00
<b>Hickory Ridge Elementary School:</b>		
Technology	327,000.00	-
Equipment and Furniture	900,000.00	-
Start-up Costs	300,000.00	-
	1,527,000.00	-
<b>Grand Total</b>	\$ 3,723,750.00	\$ 500,000.00

**Budget Revision/Amendment Request**

Date: **3/18/2019**

Amount: **4,223,750.00**

Dept. Head: **Susan Fearington (prepared by Sarah Chesley)**

Department: **Finance - multiple funds**

Internal Transfer Within Department

Transfer Between Departments/Funds

Supplemental Request

**This budget amendment is to release funds from the Capital Reserve account that were set aside for West Cabarrus High School in the amount of \$2,196,750 to fund Equipment and Furniture for \$2,000,000, Technology in the amount of \$196,750 and to use lottery funds in the amount of \$500,000 for start-up costs. We are also releasing funds from the Capital Reserve account that were set aside for the Hickory Ridge Elementary School in the amount of \$1,527,000 to fund Equipment and Furniture in the amount of \$900,000, Technology in the amount of \$327,000 and Start-up costs in the amount of \$300,000.**

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
450	9	7220-9708	Cont'b to Capital Projects Funds	70,864,504.10	2,196,750.00		73,061,254.10
450	9	7220-9821	Building & Renovations	17,017,304.20		2,196,750.00	14,820,554.20
320	6	7210-6444	Lottery Proceeds	24,069,308.00	500,000.00		24,569,308.00
320	9	7210-9708	Cont'b to Capital Projects Funds	1,650,000.00	500,000.00		2,150,000.00
369	6	7344-6921	Cont'b from Capital Reserve Fund	5,231,692.00	2,196,750.00		7,428,442.00
369	6	7344-6910	Cont'b from Capital Projects Fund	4,933,803.26	500,000.00		5,433,803.26
369	9	7344-9862	Technology - WCHS	778,250.00	196,750.00		975,000.00
369	9	7344-9860	Equipment and Furniture - WCHS	-	2,000,000.00		2,000,000.00
369	9	7344-9726	Start-up Costs - WCHS	-	500,000.00		500,000.00
450	9	7220-9708	Cont'b to Capital Projects Funds	73,061,254.10	1,527,000.00		74,588,254.10
450	9	7220-9821	Building & Renovations	14,820,554.20		1,527,000.00	13,293,554.20
370	6	7345-6921	Cont'b from Capital Reserve Fund	3,215,804.00	1,527,000.00		4,742,804.00
370	9	7345-9862	Technology - HRES	183,000.00	327,000.00		510,000.00
370	9	7345-9860	Equipment and Furniture - HRES	-	900,000.00		900,000.00
370	9	7345-9726	Start up Costs - HRES	-	300,000.00		300,000.00

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget

**Budget Officer**

- Approved
- Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

**County Manager**

- Approved
- Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

**Board of Commissioners**

- Approved
- Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*



**APPLICATION  
PUBLIC SCHOOL BUILDING CAPITAL FUND  
NORTH CAROLINA EDUCATION LOTTERY**

Approved: \_\_\_\_\_

Date: \_\_\_\_\_

County: Cabarrus

Contact Person: Kelly Klutz

LEA: Cabarrus County #130

Title: Chief Financial Officer

Address: PO Box 388 Concord, NC 28026

Phone: 704-260-5705

Project Title: West Cabarrus High School Construction Costs

Location: Concord

Type of Facility: High School

North Carolina General Statutes, Chapter 18C, provides that a portion of the proceeds of the North Carolina State Lottery Fund be transferred to the Public School Building Capital Fund in accordance with G.S. 115C-546.2. Further, G.S. 115C-546.2 (d) has been amended to include the following:

- (3) No county shall have to provide matching funds...
- (4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects.
- (5) A county may not use monies in this Fund to pay for school technology needs.

As used in this section, "Public School Buildings" shall include only facilities for individual schools that are used for instructional and related purposes, and does not include central administration, maintenance, or other facilities. ***Applications must be submitted within one year following the date of final payment to the Contractor or Vendor.***

Short description of Construction Project: Provide funds for construction costs of the West Cabarrus High

Estimated Costs:

Purchase of Land _____	\$ _____
Planning and Design Services _____	_____
New Construction _____	500,000.00
Additions / Renovations _____	_____
Repair _____	_____
Debt Payment / Bond Payment _____	_____
<b>TOTAL _____</b>	<b>\$ 500,000.00</b>

Estimated Project Beginning Date: 11/2017 Est. Project Completion Date: 8/2020

We, the undersigned, agree to submit a statement of state monies expended for this project within 60 days following completion of the project.

The County Commissioners and the Board of Education do hereby jointly request approval of the above project, and request release of \$ 500,000.00 from the Public School Building Capital Fund (Lottery Distribution). We certify that the project herein described is within the parameters of G.S. 115C-546.

\_\_\_\_\_  
(Signature — Chair, County Commissioners) (Date)

\_\_\_\_\_  
(Signature — Chair, Board of Education) (Date)

## PUBLIC SCHOOL BUILDING CAPITAL PROJECTS FUND BUDGET ORDINANCE

**BE IT ORDAINED** by the Board of Commissioners of Cabarrus County, North Carolina that, Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is the various County construction and renovation related projects. Details of the projects are listed in section C. of this Project Ordinance.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the Generally Accepted Accounting Principles (GAAP) and the budget contained herein.
- C. It is estimated that the following revenues will be available to complete capital projects as listed.

Lottery Proceeds	\$24,569,308
Lottery Proceeds – Rowan County	300,000
<b>TOTAL REVENUES</b>	<b>\$24,869,308</b>

- D. The following appropriations are made as listed.

Debt Service	\$22,419,308
Construction	2,150,000
Debt Service – Rowan County	300,000
<b>TOTAL EXPENDITURES</b>	<b>\$24,869,308</b>
<b>GRAND TOTAL – REVENUES</b>	<b>\$24,869,308</b>
<b>GRAND TOTAL – EXPENDITURES</b>	<b>\$24,869,308</b>

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:
  - 1. The Manager may transfer amounts between objects of expenditure and revenues within a function without limitation.

2. The County Manager may transfer amounts up to \$500,000 between functions of the same fund.
3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.
6. The Manager or designee may adjust debt financing from estimated projections to actual funds received.
7. The County Manager may enter into and execute change orders or amendments to construction contracts in amounts less than \$90,000 when the appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.
8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.
9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriations to such agencies where G.S. 153 A-248(b), 259, 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129(a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

### Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Director is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.
- c. Copies of this capital project ordinance shall be furnished to the Clerk to the governing Board, and to the Finance Director for direction in carrying out this project.

- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund and the portion of the Capital Project associated with the project is closed.

Adopted this 18<sup>st</sup> day of March, 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board

**CABARRUS COUNTY  
LIMITED OBLIGATION BONDS 2017 PROJECT  
BUDGET ORDINANCE**

**BE IT ORDAINED** by the Board of Commissioners of Cabarrus County, North Carolina that, Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is for the construction of a Parking Deck. Details of the project are listed in section C. of this Project Ordinance.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the Generally Accepted Accounting Principles (GAAP) and the budget contained herein.

It is estimated that the following revenues will be available to complete capital projects as listed.

Debt Proceeds	\$79,194,879
General Fund Contribution	997,000
Capital Projects Fund	7,679,803
Capital Reserve Contribution	9,070,415
<b>TOTAL REVENUES</b>	<b>\$96,942,097</b>

- C. The following appropriations are made as listed.

Financing Costs	\$814,779
Parking Deck Downtown Concord	13,583,850
Performance Learning Center	4,000,000
Other County Projects	2,472,973
West Cabarrus High School	76,070,495
<b>TOTAL EXPENDITURES</b>	<b>\$96,942,097</b>

<b>GRAND TOTAL – REVENUES</b>	<b>\$96,942,097</b>
<b>GRAND TOTAL – EXPENDITURES</b>	<b>\$96,942,097</b>

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:
  - 1. The Manager may transfer amounts between objects of expenditure and revenues within a function without limitation.

2. The County Manager may transfer amounts up to \$500,000 between functions of the same fund.
3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order
4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.
6. The Manager or designee may adjust debt financing from estimated projections to actual funds received.
7. The County Manager may enter into and execute change orders or amendments to construction contracts in amounts less than \$90,000 when the appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.
8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.
9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriations to such agencies where G.S. 153 A-248(b), 259, 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129(a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.
12. The Manager, Finance Director, or designee may create debt financing amendments from estimated projections upon approval by the Board of Commissioners of the debt financing and adjust as needed upon closing.

### Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Director is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.

- c. Copies of this capital project ordinance shall be furnished to the Clerk to the governing Board, and to the Finance Director for direction in carrying out this project.
- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund and the portion of the Capital Project associated with the project is closed.

Adopted this 18<sup>th</sup> Day of March, 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board

# CABARRUS COUNTY LIMITED OBLIGATION BONDS 2018 PROJECT BUDGET ORDINANCE

**BE IT ORDAINED** by the Board of Commissioners of Cabarrus County, North Carolina that, Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is for the construction and renovations of Public Schools. Details of the project are listed in section C. of this Project Ordinance.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the Generally Accepted Accounting Principles (GAAP) and the budget contained herein.

It is estimated that the following revenues will be available to complete capital projects as listed.

General Fund Contribution	\$ 901,000
Capital Project Fund Contribution	517,197
Debt Proceeds	54,680,000
Capital Reserve Contribution	7,036,745
<b>TOTAL REVENUES</b>	<b>\$63,134,942</b>

- C. The following appropriations are made as listed.

Legal Fees	\$ 505,534
HVAC Replacement – Mt. Pleasant High-CCS	4,276,945
Mobile Units – CCS	2,095,676
HVAC Replacement – JN Fries Middle-CCS	3,011,267
Hickory Ridge Elementary-CCS	34,937,579
RCCC – Advanced Technology Center	16,586,941
Land - RCCC	1,721,000

<b>TOTAL EXPENDITURES</b>	<b>\$63,134,942</b>
---------------------------	---------------------

<b>GRAND TOTAL – REVENUES</b>	<b>\$63,134,942</b>
<b>GRAND TOTAL – EXPENDITURES</b>	<b>\$63,134,942</b>

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:



1. The Manager may transfer amounts between objects of expenditure and revenues within a function without limitation.
2. The County Manager may transfer amounts up to \$500,000 between functions of the same fund.
3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.
6. The Manager or designee may adjust debt financing from estimated projections to actual funds received.
7. The County Manager may enter into and execute change orders or amendments to construction contracts in amounts less than \$90,000 when the appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.
8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.
9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriations to such agencies where G.S. 153 A-248(b), 259, 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129(a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

### Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Director is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.
- c. Copies of this capital project ordinance shall be furnished to the Clerk to the governing Board, and to the Finance Director for direction in carrying out this project.

- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund and the portion of the Capital Project associated with the project is closed.

Adopted this 18<sup>th</sup> day of March, 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board

# CABARRUS COUNTY CAPITAL RESERVE CAPITAL PROJECT BUDGET ORDINANCE

**BE IT ORDAINED** by the Board of Commissioners of Cabarrus County, North Carolina that, Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is for the purpose of accumulating and appropriating funds specifically for future County and School capital projects.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the Generally Accepted Accounting Principles (GAAP) and the budget contained herein.
- C. It is estimated that the following revenues will be available to complete capital projects as listed.

Interest on Investments	\$ 560,142
Contributions from General Fund	91,988,028
Contributions from Capital Projects Fund	338,309
Contributions from CVB	573,771
Contributions from other Governments	3,000,000

**TOTAL REVENUES** **\$96,460,250**

- D. The following appropriations are made as listed:

Mt. Pleasant Middle School	3,627,164
Royal Oaks Elementary	4,476,490
Kannapolis Middle School	5,018,148
Odell 3-5 Elementary School	19,755,175
G.W. Carver Renovations	1,520,978
CBTC Campus Renovations, Safety, Security	184,075
CBTC A/C Unit Replacement	205,000
Concord Middle School Roof	884,359
Harrisburg Elementary School Roof	630,306
Site Study Multiple Schools	30,000
J.N. Fries Middle School – Upfit	300,000
A.L. Brown High School Paving	500,000
Performance Learning Center	590,709
West Cabarrus High School	12,362,245
Hickory Ridge Elementary School	5,260,001
RCCC – Advanced Technology Center	2,293,941
RCCC Renovations	280,043
Cabarrus County Schools – Buses FY16	875,000
Cabarrus County Schools – Mobile Units FY16	1,110,000
Cabarrus County Schools yellow buses (10) FY17	880,000
Cabarrus County Schools mobile units (20) FY17	2,400,000
Kannapolis City Schools yellow buses (5) FY17	441,739
School Contingencies	2,017,889
Tax Collector’s Office Renovation	9,116
Frank Liske Park Overflow Parking Lot	24,908
Training & Firing Range Renovations	50,000
Public Safety Training Center	75,000
Carolina Thread Trail	50,000

FLP – Western Playground Restroom Facility	375,000
Arena Aisle Safety Lighting	185,000
Arena Marquee Replacement & Sign Enhancement	112,500
County Website Development	250,000
Renovations to 2325 Lake Concord Road	195,000
Courthouse Expansion	6,100,000
Arena Restroom Renovations	100,000
FLP Barn Restrooms	102,000
EMS Heart Monitors	550,111
EMS Relocation to Concord Fire #10	375,000
Government Center Bathroom ADA	205,000
Door Access & Security Cameras - Sheriff	70,000
ITS – Fiber Infrastructure Improvements	120,000
Governmental Center Chiller Replacement	211,000
Radio Network & Ethernet Backhaul & Edge	500,000
Arena Lighting Control System Replacement	235,000
Frank Liske Park Playground Replacement	100,000
EMS Headquarters - Consultant	50,000
Midland Library Furniture	75,000
Operations Center	2,641,264
County Facility Projects	27,717
Downtown Parking Deck	1,070,000
Robert Wallace Park	3,091,047
Park Projects/CVB	573,771
Other County Capital Projects	13,293,554
<b>TOTAL EXPENDITURES</b>	<b>\$96,460,250</b>
<b>GRAND TOTAL – REVENUES</b>	<b>\$96,460,250</b>
<b>GRAND TOTAL – EXPENDITURES</b>	<b>\$96,460,250</b>

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:
  1. The Manager may transfer amounts between objects of expenditure and revenues within a function without limitation.
  2. The County Manager may transfer amounts up to \$100,000 between functions of the same fund.
  3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
  4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
  5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.

6. The Manager or designee may adjust debt financing from estimated projections to actual funds received.
7. The County Manager may enter into and execute change orders or amendments to construction contracts in amounts less than \$90,000 when the appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.
8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.
9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriations to such agencies where G.S. 153 A-248(b), 259, 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129(a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Director is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.
- c. Copies of this capital project ordinance shall be furnished to the Clerk to the governing Board, and to the Finance Director for direction in carrying out this project.
- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund and the portion of the Capital Project associated with the project is closed.

Adopted this 18<sup>th</sup> day of March, 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Finance - Updates to the School Construction Fund and Construction and Renovation Fund

### **BRIEF SUMMARY:**

Projects for Cox Mill Elementary, Patriots Elementary, Kannapolis Middle and the Sheriff's Department have been completed. Included you will find a report with unspent project balances which are being transferred to the available account within each fund to allow for future projects.

A request from Cabarrus County Schools was received for land testing in the amount of \$12,000 for a future middle school site. The funding can be provided by the available funds in the School Construction Fund.

There is also a need for camera replacements in county facilities in the amount of \$24,099. The funding can be provided by the available funds in the Construction and Renovation Fund.

As part of the FY19 Capital Improvement Plan, ten yellow school buses were approved for West Cabarrus High School and Hickory Ridge Elementary School. The \$880,000 funding was provided by the Capital Reserve Fund and will be recorded now in the School Construction Fund.

### **REQUESTED ACTION:**

Motion to approve the Cabarrus County School land testing request.

Motion to approve the budget amendment and Project Ordinance updates to the School Construction Fund and Construction and Renovation Fund for completed projects, the school

bus funding, and the land testing request.

**EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

**SUBMITTED BY:**

Susan Fearington, Finance Director

**BUDGET AMENDMENT REQUIRED:**

Yes

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- ▣ Closed Project List
- ▣ CCS Land Testing Request
- ▣ Bus CIP Approval
- ▣ Budget Amendment
- ▣ Fd 343 Project Ordinance
- ▣ Fd 364 School Const.Project Ordinance
- ▣ Fd 450 Project Ordinance

**Cabarrus County**

**FY19 Completed Projects - School Construction Fund and Construction and Renovation Fund**

**March 18, 2019**

<u>Project</u>	<u>Purpose</u>	<u>Budget</u>	<u>Total Expenditures</u>	<u>Amount moved to AVAIL</u>
<b>Fund 364 - School Construction Fund</b>				
Cox Mill Elementary	Sewer line Improvements	\$ 25,000.00	\$ 23,536.74	\$ 1,463.26
Patriots Elementary	Two Stackable Mobile Units	122,100.35	122,099.98	0.37
Carver Elementary	Building Improvements	1,620,025.00	1,617,287.86	2,737.14
		<u>\$ 1,767,125.35</u>	<u>\$ 1,762,924.58</u>	<u>\$ 4,200.77</u>
 <b>Fund 343 - Construction and Renovation Fund</b>				
Sheriff's Department	Restroom Repairs	\$ 150,000.00	\$ 113,659.20	\$ 36,340.80





February 4, 2019

The Honorable  
Mr. Steve Morris, Chair  
Ms. Diane Honeycutt, Vice Chair  
Ms. Liz Poole  
Mr. Lynn Shue  
Mr. Blake Kiger  
Cabarrus County Board of Commissioners  
65 Church Street, SE  
Concord, NC 28026


Re: funding request for new middle school – Engineering

Dear Board of Commissioners:

Cabarrus County Schools is requesting \$12,000 to perform land testing on a potential site for the new middle school as indicated in the 10-year plan. We will be performing a Phase 1 Environmental Site Assessment, Geotechnical Engineering Evaluation, and Preliminary Jurisdictional Feature Determination (wetlands/streams) to help limit the unknowns associated with this land purchase

Please let us know if you have questions or concerns.

Sincerely,



Kelly H. Kluttz, CPA  
Cabarrus County Schools

Cc: Dr. Chris Lowder, Ms. Cindy Fertenbaugh, Mr. Rob Walter, Mrs. Carolyn Carpenter, Mr. Barry Shoemaker, Mr. David Harrison, Mrs. Holly Grimsley, Ms. Laura Blackwell

# Capital Improvement Plan

**Department:** Cabarrus County Schools  
**Function:** Education

**Project Title:** (10) Yellow Buses

**Type:** New  
**Status:** Future

**Total Cost:** \$ 880,000



## Project Description

Provide safe and reliable transportation for the projected growth of students attending CCS and to serve the need of additional special programs.

## Background & Justification/Status

With the opening of West Cabarrus High School, transportation will need to purchase 10 additional buses to cover the expected growth and enrollment of students to keep the ride time average (50 minutes) stable. Each school bus must meet NC State standards. The total requested includes the cost of the buses, cameras, taxes, tags, and fees.

## Impact If Not Funded and Maximum Time it Can be Delayed

If the 10 yellow buses are not funded, it will have a ripple effect in the following year(s). Future years show an increase in enrollment in all tiers. Should the department have an insufficient number of buses available, ride time will increase, earlier stop times will occur and ridership could be denied in heavy growth areas. In addition, a shortage of buses would cause us to use our spare buses to transport students which would decrease the number of buses to be used when a bus is "parked."

Project Costs	FY 2018 Adopted	FY 2019 Adopted	FY 2020 Planning	FY 2021 Planning	FY 2022 Planning	FY 2023 Planning	Future Years
Planning/Design							
Land/Acquisition							
Construction							
Building Improvements							
Equipment							
Other		880,000					
<b>Total</b>	<b>\$ -</b>	<b>\$ 880,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

## Funding Sources

General Fund							
Capital Reserve Fund		880,000					
Multi Year Fund							
Debt							
Grants							
Permits/Fees							
Other-TBD							
<b>Total</b>	<b>\$ -</b>	<b>\$ 880,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

## Operating Budget Impact

Salaries & Benefits							
Materials & Supplies							
Contracts & Services							
Capital Outlay							
Other							
<b>Total</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

### Budget Revision/Amendment Request

Date: 3/18/2019

Amount: \$ 956,640.57

Dept. Head: Susan Fearington (Sarah Chesley)

Department: Finance - 364, 343 and 450 Funds

Internal Transfer Within Department     
  Transfer Between Departments/Funds     
  Supplemental Request

**The purpose of this amendment is to move unused funds from completed projects in the School Construction Fund, Cox Mill Elementary in the amount of \$1,463.29, Patriots Elementary in the amount of .37 cents, Kannapolis Middle School in the amount of \$2,737.14, and in the Construction & Renovation, Sheriff's Bathroom repair in the amount of \$36,340.80, to an available account to be used for other projects. This amendment also moves funds 1) from the School Construction Fund AVAIL account into the Multiple School site development project in the amount of \$12,000 for land testing and 2) from the Construction and Renovation Fund AVAIL account for a County Building camera replacement system in the amount of \$24,099. In addition this BA releases funds from the Capital Reserve Fund to fund the purchase of 10 yellow school buses for WCHS & HRES in the amount of \$880,000.**

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
364	6	0000-6921-AVAIL	Cont'b from CRF	73,311.85	1,463.26		74,775.11
364	9	0000-9830-AVAIL	Other Improvements - AVAIL	77,366.76	1,463.26		78,830.02
364	6	7316-6921	Cont'b from CRF	25,000.00		1,463.26	23,536.74
364	9	7316-9830	Other Improvements - Cox Mill Elementary	25,000.00		1,463.26	23,536.74
364	6	0000-6921-AVAIL	Cont'b from CRF	74,775.11	0.37		74,775.48
364	9	0000-9830-AVAIL	Other Improvements - AVAIL	78,830.02	0.37		78,830.39
364	6	7330-6921	Cont'b from CRF	122,100.35		0.37	122,099.98
364	9	7330-9826	Building Acquisition- Patriots Elementary	122,100.35		0.37	122,099.98
364	6	0000-6921-AVAIL	Cont'b from CRF	74,775.48	2,737.14		77,512.62
364	9	0000-9830-AVAIL	Other Improvements - AVAIL	78,830.39	2,737.14		81,567.53
364	6	7402-6921-RENO	Cont'b from CRF	1,520,978.00		2,737.14	1,518,240.86
364	9	7402-9821-RENO	Building and Improvements - KIS	1,620,025.00		2,737.14	1,617,287.86
364	6	0000-6921-AVAIL	Cont'b from CRF - AVAIL	77,512.62		12,000.00	65,512.62
364	9	0000-9830-AVAIL	Other Improvements - AVAIL	81,567.53		12,000.00	69,567.53
364	6	7338-6921	Cont'b from CRF - Multiple Schools Site Testing	30,000.00	12,000.00		42,000.00

364	9	7338-9606	Engineering - Multiple Schools Site Testing	-	12,000.00		12,000.00
							0.00
450	9	7220-9708	Cont'b to Capital Projects Funds	74,588,254.10	880,000.00		75,468,254.10
450	9	7220-9821	Building & Renovations	13,293,554.20		880,000.00	12,413,554.20
364	6	7338-6921	Cont'b from CRF - Buses Multiple Schools	-	880,000.00		880,000.00
364	9	7338-9863	Vehicles - Buses Multiple Schools	-	880,000.00		880,000.00
343	6	0000-6902-AVAIL	Cont'b from GF - AVAIL	60,578.62	36,340.80		96,919.42
343	9	0000-9830-AVAIL	Other Improvements - AVAIL	83,744.90	36,340.80		120,085.70
343	6	2110-6902-RPAIR	Cont'b from GF	150,000.00		36,340.80	113,659.20
343	9	2110-9821-RPAIR	Building and Renovations	150,000.00		36,340.80	113,659.20
343	6	0000-6902-AVAIL	Cont'b from GF - AVAIL	96,919.42		24,099.00	72,820.42
343	9	0000-9830-AVAIL	Other Improvements - AVAIL	120,085.70		24,099.00	95,986.70
343	6	1810-6902-CAMSY	Cont'b from GF - CAMSY	-	24,099.00		24,099.00
343	9	1810-9860-CAMSY	Equipment & Furniture	-	24,099.00		24,099.00
							0.00

**Budget Officer**

- Approved  
 Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

**County Manager**

- Approved  
 Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

**Board of Commissioners**

- Approved  
 Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

# CABARRUS COUNTY CONSTRUCTION AND RENOVATION PROJECT BUDGET ORDINANCE

**BE IT ORDAINED** by the Board of Commissioners of Cabarrus County, North Carolina that, Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is the various County construction and renovation related projects. Details of the projects are listed in section C. of this Project Ordinance.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the Generally Accepted Accounting Principles (GAAP) and the budget contained herein.
- C. It is estimated that the following revenues will be available to complete capital projects as listed.

Park & Recreation Trust Fund (PARTF) Grant	\$ 350,000
Rental – Tower Lease	847,694
Sale of Fixed Assets	1,012,442
Contributions and Donations	117,036
General Fund Contribution	5,112,457
Lease Proceeds (Robert Wallace Park)	4,596,394
Capital Projects Fund Contribution	2,141,264
Capital Reserve Fund Contribution	13,399,546

**TOTAL REVENUES** **\$27,576,832**

- D. The following appropriations are made as listed.

Government Center Chiller Replacement	\$211,000
Governmental Center ADA Bathrooms	151,469
County Building Camera Systems	24,099
ITS Fiber Technology Improvements	120,000
County Website Design	283,750
Furniture Replacements	184,723
County Operation Center	3,100,000
Elevator Modernization Government Center	176,000
Multiple building Fall Protection Measures	300,000
Jail Camera Upgrade	112,607
LEC Law Enforcement Technology	791,324
Training & Firing Range Renovation	50,000
Sheriff's Admin Roof Repair	113,659
Courthouse Expansion	6,100,000
Clerk of Court Improvements	113,000
Public Safety Training Center	90,000
EMS Headquarters – Consultants	50,000
EMS Co-location – Concord Fire #11	375,000
EMS Heart Monitors	566,111
Emergency Communications Equip & Ethernet Backhaul	2,721,086
JM Robinson High School Wetlands Mitigation	100,000

Landfill Retaining Wall	230,301
Veterans Services Improvements	92,674
Cooperative Ext. ADA Bathrooms	118,812
RCCC Land for future expansion	1,244,001
NE Area Park – Other Improvements	489,024
NE Area Park - Plot	100,000
Robert Wallace Park	8,147,965
Frank Liske Park – Barn Restrooms	126,405
Carolina Thread Trail	109,329
Frank Liske park Playground Replacement	100,000
Frank Liske Park – Lower Lot Restrooms	678,506
Midland Library Furniture	75,000
Arena – Lighting Control System Replacement	235,000
Unassigned	95,987

**TOTAL EXPENDITURES** **\$27,576,832**

**GRAND TOTAL – REVENUES** **\$27,576,832**

**GRAND TOTAL – EXPENDITURES** **\$27,576,832**

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:
  1. The Manager may transfer amounts between objects of expenditure and revenues within a function without limitation.
  2. The County Manager may transfer amounts up to \$500,000 between functions of the same fund.
  3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
  4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
  5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.
  6. The Manager or designee may adjust debt financing from estimated projections to actual funds received.
  7. The County Manager may enter into and execute change orders or amendments to construction contracts in amounts less than \$90,000 when the appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.

8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.
9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriations to such agencies where G.S. 153 A-248(b), 259, 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129(a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Director is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.
- c. Copies of this capital project ordinance shall be furnished to the Clerk to the governing Board, and to the Finance Director for direction in carrying out this project.
- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund and the portion of the Capital Project associated with the project is closed.

Adopted this 18<sup>th</sup> day of March, 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board

# CABARRUS COUNTY SCHOOL CONSTRUCTION PROJECT BUDGET ORDINANCE

**BE IT ORDAINED** by the Board of Commissioners of Cabarrus County, North Carolina that, Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is for the construction and renovations of Public Schools. Details of the projects are listed in section D. of this Project Ordinance.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the Generally Accepted Accounting Principles (GAAP) and the budget contained herein.
  - a. It is estimated that the following revenues will be available to complete capital projects as listed.

General Fund Contribution	\$49,047
Capital Reserve Contribution	3,840,465
Capital Projects Fund Contribution	54,055

<b>TOTAL REVENUES</b>	<b>\$3,943,567</b>
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- C. The following appropriations are made as listed.

Cox Elementary Sewer Relocation	23,537
Patriots Elementary Mobile Units	122,100
Site Evaluations-Multiple Schools	42,000
J.N. Fries Middle School Other Improvements	300,000
Kannapolis Intermediate Renovations-Carver Elem	1,617,288
A.L. Brown HS Other Improvements	500,000
CBTC Campus Renovations, Safety, Security	184,075
CBTC A/C Units Replacement Phase II	105,000
RCCC – HVAC Replacement	100,000
Available Other Improvements	69,567

<b>TOTAL EXPENDITURES</b>	<b>\$3,943,567</b>
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<b>GRAND TOTAL – REVENUES</b>	<b>\$3,943,567</b>
<b>GRAND TOTAL – EXPENDITURES</b>	<b>\$3,943,567</b>

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:



1. The Manager may transfer amounts between objects of expenditure and revenues within a function without limitation.
2. The County Manager may transfer amounts up to \$500,000 between functions of the same fund.
3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.
6. The Manager or designee may adjust debt financing from estimated projections to actual funds received.
7. The County Manager may enter into and execute change orders or amendments to construction contracts in amounts less than \$90,000 when the appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.
8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.
9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriations to such agencies where G.S. 153 A-248(b), 259, 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129(a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

### Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Director is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.

- c. Copies of this capital project ordinance shall be furnished to the Clerk to the governing Board, and to the Finance Director for direction in carrying out this project.
- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund and the portion of the Capital Project associated with the project is closed.

Adopted this 18<sup>th</sup> day of March, 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board

## CABARRUS COUNTY CAPITAL RESERVE CAPITAL PROJECT BUDGET ORDINANCE

**BE IT ORDAINED** by the Board of Commissioners of Cabarrus County, North Carolina that, Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is for the purpose of accumulating and appropriating funds specifically for future County and School capital projects.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the Generally Accepted Accounting Principles (GAAP) and the budget contained herein.
- C. It is estimated that the following revenues will be available to complete capital projects as listed.

Interest on Investments	\$ 560,142
Contributions from General Fund	91,988,028
Contributions from Capital Projects Fund	338,309
Contributions from CVB	573,771
Contributions from other Governments	3,000,000

<b>TOTAL REVENUES</b>	<b>\$96,460,250</b>
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- D. The following appropriations are made as listed:

Mt. Pleasant Middle School	3,627,164
Royal Oaks Elementary	4,476,490
Kannapolis Middle School	5,018,148
Odell 3-5 Elementary School	19,755,175
G.W. Carver Renovations	1,520,978
CBTC Campus Renovations, Safety, Security	184,075
CBTC A/C Unit Replacement	205,000
Concord Middle School Roof	884,359
Harrisburg Elementary School Roof	630,306
Site Study Multiple Schools	30,000
Buses – WCHS and HRES	880,000
J.N. Fries Middle School – Upfit	300,000
A.L. Brown High School Paving	500,000
Performance Learning Center	590,709
West Cabarrus High School	12,362,245
Hickory Ridge Elementary School	5,260,001
RCCC – Advanced Technology Center	2,293,941
RCCC Renovations	280,043
Cabarrus County Schools – Buses FY16	875,000
Cabarrus County Schools – Mobile Units FY16	1,110,000
Cabarrus County Schools yellow buses (10) FY17	880,000
Cabarrus County Schools mobile units (20) FY17	2,400,000

Kannapolis City Schools yellow buses (5) FY17	441,739
School Contingencies	2,017,889
Tax Collector's Office Renovation	9,116
Frank Liske Park Overflow Parking Lot	24,908
Training & Firing Range Renovations	50,000
Public Safety Training Center	75,000
Carolina Thread Trail	50,000
FLP – Western Playground Restroom Facility	375,000
Arena Aisle Safety Lighting	185,000
Arena Marquee Replacement & Sign Enhancement	112,500
County Website Development	250,000
Renovations to 2325 Lake Concord Road	195,000
Courthouse Expansion	6,100,000
Arena Restroom Renovations	100,000
FLP Barn Restrooms	102,000
EMS Heart Monitors	550,111
EMS Relocation to Concord Fire #10	375,000
Government Center Bathroom ADA	205,000
Door Access & Security Cameras - Sheriff	70,000
ITS – Fiber Infrastructure Improvements	120,000
Governmental Center Chiller Replacement	211,000
Radio Network & Ethernet Backhaul & Edge	500,000
Arena Lighting Control System Replacement	235,000
Frank Liske Park Playground Replacement	100,000
EMS Headquarters - Consultant	50,000
Midland Library Furniture	75,000
Operations Center	2,641,264
County Facility Projects	27,717
Downtown Parking Deck	1,070,000
Robert Wallace Park	3,091,047
Park Projects/CVB	573,771
Other County Capital Projects	12,413,554
<b>TOTAL EXPENDITURES</b>	<b>\$96,460,250</b>
<b>GRAND TOTAL – REVENUES</b>	<b>\$96,460,250</b>
<b>GRAND TOTAL – EXPENDITURES</b>	<b>\$96,460,250</b>

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:
  1. The Manager may transfer amounts between objects of expenditure and revenues within a function without limitation.

2. The County Manager may transfer amounts up to \$100,000 between functions of the same fund.
3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.
6. The Manager or designee may adjust debt financing from estimated projections to actual funds received.
7. The County Manager may enter into and execute change orders or amendments to construction contracts in amounts less than \$90,000 when the appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.
8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.
9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriations to such agencies where G.S. 153 A-248(b), 259, 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129(a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

### Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Director is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.
- c. Copies of this capital project ordinance shall be furnished to the Clerk to the governing Board, and to the Finance Director for direction in carrying out this project.

- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund and the portion of the Capital Project associated with the project is closed.

Adopted this 18<sup>th</sup> day of March, 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

---

### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Finance – Partial Funding for the New Courthouse Architect, Pre-Construction Administration Contracts, Engineering and Other Improvements

### **BRIEF SUMMARY:**

Partial budget funding in the areas of Architecture, Pre-Construction Administration, Engineering and Other Improvements need to be recorded for the new Courthouse. Reallocation of existing funds and additional Capital Reserve funds are needed to meet the current needs of the new Courthouse project. To allocate this funding, two budget amendments and three project ordinances are included for your review.

### **REQUESTED ACTION:**

Motion to approve funding for the new Courthouse Architect and Pre-Construction Administration contracts, Engineering and Other Improvement needs and the related budget amendments and project ordinances.

### **EXPECTED LENGTH OF PRESENTATION:**

10 Minutes

### **SUBMITTED BY:**

Susan Ferrington, Finance Director

### **BUDGET AMENDMENT REQUIRED:**

Yes

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

---

**ATTACHMENTS:**

- ▣ Courthouse Backup
- ▣ Close out Budget Amendment
- ▣ Fd 450 Budget Amendment
- ▣ Fd 343 Project Ordinance
- ▣ Fd 368 Project Ordinance
- ▣ Fd 450 Project Ordinance



<b>Cabarrus County</b>		
<b>Courthouse Project</b>		
<b>Current Funding needs</b>		
<b>Architects</b>		
34392210-9607-COURT	A/E Basic Design Fee	\$ 5,750,000
	Third Party Estimator	50,000
	Furnishing, Fixtures & Equipment Design	320,000
	Reimbursable Expenses(prints, posters, etc)	10,000
	A/E Basic Construction Admin (submittal review, pay app, 72 visits)	1,250,000
	Augmented Construction Admin Additional (Enhanced)	578,000
	<b>Total Silling Architect Contract</b>	<b>7,958,000</b>
<b>Construction</b>		
34392210-9820-COURT	Pre-Construction Admin - Messer	1,111,000
<b>Engineering</b>		
34392210-9606-COURT	Pre-Design Engineers	100,000
<b>Other Improvements</b>		
34392210-9830-COURT	Other Improvements	2,400,000
	<b>Total Need</b>	<b>\$ 11,569,000</b>
<b>Funding</b>		
	Available within established Courthouse budget	\$ 5,150,000
	Mt. Pleasant Middle School underbudget	389,243
	Mt. Pleasant Middle School Contingency	385,086
	Mt. Pleasant Middle School Contractor Sales Tax	496,613
	Royal Oaks Elementary School underbudget	33,639
	Royal Oaks Elementary School Contingency	145,760
	Royal Oaks Elementary School Contractor Sales Tax	355,249
	Interest Income - unbudgeted	475,956
	Capital Reserve Funding	4,137,454
	<b>Total</b>	<b>\$ 11,569,000</b>

### Budget Revision/Amendment Request

Date: 3/18/2019

Amount: 1,750,700.07

Dept. Head: Susan Fearington

Department: Finance

Internal Transfer Within Department     
  Transfer Between Departments/Funds     
  Supplemental Request

**This budget amendment adjusts the construction budget for the 1) completed Mt. Pleasant Middle School replacement and 2) a budget adjustment for the partial completion of Royal Oaks Elementary School. This amendment also records unbudgeted interest income and contractor sales tax savings. The net effect of \$1,750,700.07 is being transferred to the Capital Reserve Fund for one time project funding.**

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
368	6	0000-6701	Interest on Investments	18,817.31	477,480.91		496,298.22
368	9	0000-9704	Contribution to General Fund	-	1,524.46		1,524.46
368	9	0000-9707	Contribution to Capital Reserve Fund	-	1,750,700.07	-	1,750,700.07
368	9	7305-9825	Contra Sales Tax	-		355,248.50	(355,248.50)
368	9	7305-9606	Engineers	262,500.00		4,770.71	257,729.29
368	9	7305-9726	Cabarrus County Sch-Start Up	207,250.00		251.37	206,998.63
368	9	7305-9860	Equipment & Furniture	805,000.00		3,133.08	801,866.92
368	9	7305-9862	Technology	752,400.00		6,606.84	745,793.16
368	9	7305-9864	Technology Infrastructure	287,600.18		18,876.95	268,723.23
368	9	7332-9825	Contra Sales Tax	-		496,613.02	(496,613.02)
368	9	7332-9485	Administration Fees	20,000.00		1.44	19,998.56
368	9	7332-9606	Engineers	357,877.00		83,336.25	274,540.75
368	9	7332-9607	Architects	1,454,990.00		31,104.72	1,423,885.28
368	9	7332-9726	Cabarrus County Sch-Start Up	189,999.70		4,394.37	185,605.33
368	9	7332-9820-0599	Construction-Owners Costs	300,000.00		165,409.96	134,590.04
368	9	7332-9860	Equipment & Furniture	1,215,000.00		31,739.59	1,183,260.41
368	9	7332-9862	Technology	782,308.00		73,256.30	709,051.70
368	9	7332-9864	Technology Infrastructure	505,815.00		0.52	505,814.48

450	6	7220-6910	Cont From Capital Projects Fund	331,709.00	1,750,700.07		2,082,409.07
450	9	7220-9821	Building and Renovations	12,413,554.20	1,750,700.07		14,164,254.27

**Budget Officer**

- Approved
- Denied

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**County Manager**

- Approved
- Denied

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Board of Commissioners**

- Approved
- Denied

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

### Budget Revision/Amendment Request

Date: 3/18/2019

Amount: \$ 6,419,000.00

Dept. Head: Susan Fearington, (prepared by Sarah Chesley)

Department: Fund 450 and 343

Internal Transfer Within Department
  Transfer Between Departments/Funds
  Supplemental Request

**Purpose: This Budget Amendment moves funds from the Contingency Fund for Royal Oaks Elementary in the amount of \$145,760 and the Mount Pleasant Middle School in the amount of \$385,086 and moves funds from Building and Renovations into the Contribution to Capital Project Fund in the amount of \$5,888,154. The total amount of \$6,419,000 will be used to fund the Courthouse architect and pre-construction contracts in the 343 Construction and Renovation Fund. This budget amendment also adjusts the consultants, engineering, other improvements and contingency budgets for current estimates.**

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
450	9	7305-9660	Contingency - ROE	145,760.00		145,760.00	0.00
450	9	7220-9708	Contribution to Capital Project Fund	70,864,504.10	145,760.00		71,010,264.10
450	9	7332-9660	Contingency - MPMS	505,086.00		385,086.00	120,000.00
450	9	7220-9708	Contribution to Capital Project Fund	71,010,264.10	385,086.00		71,395,350.10
450	9	7220-9821	Building & Renovations	14,164,254.27		5,888,154.00	8,276,100.27
450	9	7220-9708	Contribution to Capital Project Fund	71,395,350.10	5,888,154.00		77,283,504.10
343	6	2210-6921-COURT	Contribution from Capital Reserve	6,100,000.00	6,419,000.00		12,519,000.00
343	9	2210-9605-COURT	Consultants	100,000.00		16,904.22	83,095.78
343	9	2210-9606-COURT	Engineering	-	100,000.00		100,000.00
343	9	2210-9607-COURT	Architect	6,000,000.00	2,377,315.00		8,377,315.00
343	9	2210-9820-COURT	Construction	-	1,111,000.00		1,111,000.00

343	9	2210-9830-COURT	Other Improvements	113,000.00	2,355,785.98		2,468,785.98
343	9	2210-9660-COURT	Contingency	-	491,803.24		491,803.24

**Budget Officer**

- Approved
- Denied

**County Manager**

- Approved
- Denied

**Board of Commissioners**

- Approved
- Denied

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# CABARRUS COUNTY CONSTRUCTION AND RENOVATION PROJECT BUDGET ORDINANCE

**BE IT ORDAINED** by the Board of Commissioners of Cabarrus County, North Carolina that, Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is the various County construction and renovation related projects. Details of the projects are listed in section C. of this Project Ordinance.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the Generally Accepted Accounting Principles (GAAP) and the budget contained herein.
- C. It is estimated that the following revenues will be available to complete capital projects as listed.

Park & Recreation Trust Fund (PARTF) Grant	\$ 350,000
Rental – Tower Lease	847,694
Sale of Fixed Assets	1,012,442
Contributions and Donations	117,036
General Fund Contribution	5,112,457
Lease Proceeds (Robert Wallace Park)	4,596,394
Capital Projects Fund Contribution	2,141,264
Capital Reserve Fund Contribution	19,818,545

**TOTAL REVENUES** **\$33,995,832**

- D. The following appropriations are made as listed.

Government Center Chiller Replacement	\$211,000
Governmental Center ADA Bathrooms	151,469
County Building Camera Systems	24,099
ITS Fiber Technology Improvements	120,000
County Website Design	283,750
Furniture Replacements	184,723
County Operation Center	3,100,000
Elevator Modernization Government Center	176,000
Multiple building Fall Protection Measures	300,000
Jail Camera Upgrade	112,607
LEC Law Enforcement Technology	791,324
Training & Firing Range Renovation	50,000
Sheriff's Admin Roof Repair	113,659
Courthouse Expansion	12,519,000
Clerk of Court Improvements	113,000
Public Safety Training Center	90,000
EMS Headquarters – Consultants	50,000
EMS Co-location – Concord Fire #11	375,000
EMS Heart Monitors	566,111
Emergency Communications Equip & Ethernet Backhaul	2,721,086
JM Robinson High School Wetlands Mitigation	100,000
Landfill Retaining Wall	230,301
Veterans Services Improvements	92,674

Cooperative Ext. ADA Bathrooms	118,812
RCCC Land for future expansion	1,244,001
NE Area Park – Other Improvements	489,024
NE Area Park - Plot	100,000
Robert Wallace Park	8,147,965
Frank Liske Park – Barn Restrooms	126,405
Carolina Thread Trail	109,329
Frank Liske park Playground Replacement	100,000
Frank Liske Park – Lower Lot Restrooms	678,506
Midland Library Furniture	75,000
Arena – Lighting Control System Replacement	235,000
Unassigned	95,987

**TOTAL EXPENDITURES** **\$33,995,832**

**GRAND TOTAL – REVENUES** **\$33,995,832**

**GRAND TOTAL – EXPENDITURES** **\$33,995,832**

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:
  1. The Manager may transfer amounts between objects of expenditure and revenues within a function without limitation.
  2. The County Manager may transfer amounts up to \$500,000 between functions of the same fund.
  3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
  4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
  5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.
  6. The Manager or designee may adjust debt financing from estimated projections to actual funds received.
  7. The County Manager may enter into and execute change orders or amendments to construction contracts in amounts less than \$90,000 when the appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.
  8. The County Manager may award and execute contracts which are not required

to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.

9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriations to such agencies where G.S. 153 A-248(b), 259, 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129(a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Director is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.
- c. Copies of this capital project ordinance shall be furnished to the Clerk to the governing Board, and to the Finance Director for direction in carrying out this project.
- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund and the portion of the Capital Project associated with the project is closed.

Adopted this 18<sup>th</sup> day of March 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board



# CABARRUS COUNTY SCHOOL CONSTRUCTION DEBT FUND BUDGET ORDINANCE

**BE IT ORDAINED** by the Board of Commissioners of Cabarrus County, North Carolina that, Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is for the construction and renovations of Public Schools. Details of the projects are listed in section D. of this Project Ordinance.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the Generally Accepted Accounting Principles (GAAP) and the budget contained herein.
- C. It is estimated that the following revenues will be available to complete capital projects as listed.

Capital Reserve Contribution	\$13,121,802
General Fund Contribution	1,336,500
Limited Obligation Bonds	84,944,452
Public School Building - Lottery funds	1,600,000
Interest Income	496,299
<b>TOTAL REVENUES</b>	<b>\$101,499,053</b>

- D. The following appropriations are made as listed.

Royal Oaks Elementary School	\$23,854,603
Mt. Pleasant Middle School	33,374,308
Kannapolis Middle School	41,777,548
Legal Fees/Closing Costs	741,894
Contribution to Capital Reserve Fund	1,750,700
<b>TOTAL EXPENDITURES</b>	<b>\$101,499,053</b>

<b>GRAND TOTAL – REVENUES</b>	<b>\$101,499,053</b>
<b>GRAND TOTAL – EXPENDITURES</b>	<b>\$101,499,053</b>

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:
  - 1. The Manager may transfer amounts between objects of expenditure and revenues within a function without limitation.
  - 2. The County Manager may transfer amounts up to \$500,000 between functions of

the same fund.

3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.
6. The Manager or designee may adjust debt financing from estimated projections to actual funds received.
7. The County Manager may enter into and execute change orders or amendments to construction contracts in amounts less than \$90,000 when the appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.
8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.
9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriations to such agencies where G.S. 153 A-248(b), 259, 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129(a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

### Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Director is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.
- c. Copies of this capital project ordinance shall be furnished to the Clerk to the governing Board, and to the Finance Director for direction in carrying out this project.
- d. At the completion of a construction project, all unrestricted excess funds are

transferred to the General Fund and the portion of the Capital Project associated with the project is closed.

Adopted this the 18<sup>th</sup> day of March, 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board

# CABARRUS COUNTY CAPITAL RESERVE CAPITAL PROJECT BUDGET ORDINANCE

**BE IT ORDAINED** by the Board of Commissioners of Cabarrus County, North Carolina that, Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is for the purpose of accumulating and appropriating funds specifically for future County and School capital projects.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the Generally Accepted Accounting Principles (GAAP) and the budget contained herein.
- C. It is estimated that the following revenues will be available to complete capital projects as listed.

Interest on Investments	\$ 560,142
Contributions from General Fund	91,988,028
Contributions from Capital Projects Fund	2,089,009
Contributions from CVB	573,771
Contributions from other Governments	3,000,000

<b>TOTAL REVENUES</b>	<b>\$98,210,950</b>
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- D. The following appropriations are made as listed:

Mt. Pleasant Middle School	3,627,164
Royal Oaks Elementary	4,476,490
Kannapolis Middle School	5,018,148
Odell 3-5 Elementary School	19,755,175
G.W. Carver Renovations	1,520,978
CBTC Campus Renovations, Safety, Security	184,075
CBTC A/C Unit Replacement	205,000
Concord Middle School Roof	884,359
Harrisburg Elementary School Roof	630,306
Site Study Multiple Schools	30,000
Buses – WCHS and HRES	880,000
J.N. Fries Middle School – Upfit	300,000
A.L. Brown High School Paving	500,000
Performance Learning Center	590,709
West Cabarrus High School	12,362,245
Hickory Ridge Elementary School	5,260,001
RCCC – Advanced Technology Center	2,293,941
RCCC Renovations	280,043
Cabarrus County Schools – Buses FY16	875,000
Cabarrus County Schools – Mobile Units FY16	1,110,000
Cabarrus County Schools yellow buses (10) FY17	880,000
Cabarrus County Schools mobile units (20) FY17	2,400,000
Kannapolis City Schools yellow buses (5) FY17	441,739
School Contingencies	1,487,043
Tax Collector’s Office Renovation	9,116
Frank Liske Park Overflow Parking Lot	24,908
Training & Firing Range Renovations	50,000
Public Safety Training Center	75,000

Carolina Thread Trail	50,000
FLP – Western Playground Restroom Facility	375,000
Arena Aisle Safety Lighting	185,000
Arena Marquee Replacement & Sign Enhancement	112,500
County Website Development	250,000
Renovations to 2325 Lake Concord Road	195,000
Courthouse Expansion	12,519,000
Arena Restroom Renovations	100,000
FLP Barn Restrooms	102,000
EMS Heart Monitors	550,111
EMS Relocation to Concord Fire #10	375,000
Government Center Bathroom ADA	205,000
Door Access & Security Cameras - Sheriff	70,000
ITS – Fiber Infrastructure Improvements	120,000
Governmental Center Chiller Replacement	211,000
Radio Network & Ethernet Backhaul & Edge	500,000
Arena Lighting Control System Replacement	235,000
Frank Liske Park Playground Replacement	100,000
EMS Headquarters - Consultant	50,000
Midland Library Furniture	75,000
Operations Center	2,641,264
County Facility Projects	27,717
Downtown Parking Deck	1,070,000
Robert Wallace Park	3,091,047
Park Projects/CVB	573,771
Other County Capital Projects	8,276,100

**TOTAL EXPENDITURES** **\$98,210,950**

**GRAND TOTAL – REVENUES** **\$98,210,950**

**GRAND TOTAL – EXPENDITURES** **\$98,210,950**

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:
  - 1. The Manager may transfer amounts between objects of expenditure and revenues within a function without limitation.
  - 2. The County Manager may transfer amounts up to \$100,000 between functions of the same fund.
  - 3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
  - 4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
  - 5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets

to match, including grants that require a County match for which funds are available.

6. The Manager or designee may adjust debt financing from estimated projections to actual funds received.
7. The County Manager may enter into and execute change orders or amendments to construction contracts in amounts less than \$90,000 when the appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.
8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.
9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriations to such agencies where G.S. 153 A-248(b), 259, 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129(a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Director is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.
- c. Copies of this capital project ordinance shall be furnished to the Clerk to the governing Board, and to the Finance Director for direction in carrying out this project.
- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund and the portion of the Capital Project associated with the project is closed.

Adopted this 18<sup>th</sup> day of March, 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Human Resources - Health Insurance Renewal FY20

### **BRIEF SUMMARY:**

Following a review of renewal options, Human Resources and County Management would like to recommend a health insurance renewal for FY 20.

The County currently provides health coverage to over 1000 employees and 1,400 covered lives offering two plans, a traditional "Open Access Plan" (OAP) and a Consumer Driven Plan with a Health Savings Account (HSA). Approximately 38% of our employees are on the OAP plan.

With the approved OAP plan design changes, the health insurance FY20 renewal will be 1.74% increase from FY 19.

### **REQUESTED ACTION:**

Motion to adopt the plan design changes to the OAP plan and increase the rate by \$10 per employee per month, from \$655 to \$665. The total amount increased is \$189,555.00.

### **EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

### **SUBMITTED BY:**

Lundee Covington, HR Director  
Johanna Ray, Health and Wellness Manager

### **BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- ▣ Health Insurance FY 20



# Health Insurance Meetings FY 20

Presented by:

Lundee Covington, Human Resources Manager  
Johanna Ray, Health and Wellness Manager



CABARRUS COUNTY  
*America Thrives Here*

# Health Insurance Renewal

- Continue with Cigna for FY 20
- Dependent coverage premiums will remain the same on both plans
- Plans offered for FY 20
  - OAP (only available if health insurance effective prior to 7/1/17).  
Proposed change
  - H S A open to all. No changes
    - Employees only on OAP: 38%
    - Employees only on HSA: 62%
    - Employees plus dependents on OAP: 37%
    - Employees plus dependents on HSA: 63%
    - Employee/Retirees only on OAP: 39%
    - Employee/Retirees only on HSA: 61%
    - OAP All Members (employees, retirees and dependents): 38%
    - HSA All Members (employees, retirees and dependents): 62%



# Health Insurance Renewal

- The claims for the OAP plan continue to run over 50% higher than the H S A plan.
- Address the cost differential on OAP plan: it is recommended that the OAP individual deductible will increase \$500 and RX copays will change instead of adding a \$50 monthly premium (\$600 annually).
- Cost increase to County: \$189,555  
Self insured rate:  
Currently \$655 per employee per month  
FY 20 **\$665** per employee per month



	2019-2020 Renewal	
	Proposed CIGNA Self-funded OAP	CIGNA Self-funded HSA
	In-Network	In-Network
<b>County Contribution to an HSA Account</b>	None	\$750
<b>Coinsurance Limit</b>	Single \$4,150 Family \$8,300	Single \$2,000 Family \$2,000
<b>Lifetime Maximum</b>	None	None
<b>Deductible - Individual</b>	\$2,000	\$1,500
<b>Deductible - Family</b>	\$4,000	\$3,000
<b>Max Out of Pocket-Individual</b>	\$6,150	\$3,500
<b>Max Out of Pocket-Family</b>	\$12,300	\$5,000
<b>Office Visits to Your PCP</b>	\$30 Copay	Ded/Coinsurance
<b>Office Visit to a Specialist</b>	Ded/Coinsurance	Ded/Coinsurance
<b>Wellness Benefits</b>	100%	100%
<b>Inpatient Hospital Care</b>	Ded/Coinsurance	Ded/Coinsurance
<b>Outpatient Surgery</b>	Ded/Coinsurance	Ded/Coinsurance
<b>Emergency Room Visit</b>	Ded/Coinsurance	Ded/Coinsurance
<b>Urgent Care</b>	Ded/Coinsurance	Ded/Coinsurance
<b>Prescription Drugs</b>	\$10/\$55/\$70 - 2x Mail	Ded/Coinsurance
<b>Benefit Percentage</b>	80%	80%

OAP changes are highlighted in yellow.

# FY20 Health Insurance

- **No dependent premium changes for employees**
- **Proposed plans for FY 20**
  - OAP (only available if health insurance effective prior to 7/1/17). Plan design changes.
  - H S A open to all. No plan changes.
- **Proposed increase of \$189,555 for the County**
  - \$665 per employee per month

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Infrastructure and Asset Management - Courthouse Expansion Construction Manager at Risk Contract

### **BRIEF SUMMARY:**

Messer Construction Co. was selected as the Construction Manager at Risk (CMAR) for the Cabarrus County Courthouse Expansion project. Staff will present the AIA contract(s) for Messer Construction Co. for approval by the Board of Commissioners. These contracts detail the delivery of the Guaranteed Maximum Prices (GMP's) for the site enabling package, Phase I (the new Courthouse building), and Phase II (renovations to the existing Courthouse). The contract will also carry the pre-construction services which represents the collaboration work with the design team and is the primary goal of a Construction Manager at Risk Project.

### **REQUESTED ACTION:**

Motion to approve the contract between Cabarrus County and Messer Construction Co.; and authorize the County Manager to execute the contract on behalf of Cabarrus County, subject to review or revisions by the County Attorney.

### **EXPECTED LENGTH OF PRESENTATION:**

15 Minutes

### **SUBMITTED BY:**

Kyle Bilafer, Area Manager of Operations

### **BUDGET AMENDMENT REQUIRED:**

No

## COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:

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### ATTACHMENTS:

- ▣ AIA 133 Contract
- ▣ AIA 201 Contract
- ▣ Addendum A
- ▣ Addendum B
- ▣ Addendum C
- ▣ Addendum D

 **AIA**® Document A133™ – 2009

**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 1st day of February in the year 2019  
(In words, indicate day, month and year.)

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

Cabarrus County  
P.O. Box 707  
Street address: 242General services Dr., Concord NC.28025  
Telephone Number (704) 920-3201;

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

Messer Construction Co  
4201 Stuart Andrew Blvd Suite B  
Charlotte NC> 28217  
NC. License #70194  
Telephone Number (704) 679-6000

for the following Project:  
(Name and address or location)

Cabarrus County Courthouse  
77 Union St  
Concord NC. 28025

The Architect:  
(Name, legal status and address)

Silling Architects, Inc.  
405 Capitol St.  
Charleston WV. 25301

The Owner's Designated Representative:  
(Name, address and other information)

Kyle D. Bilafer  
Infrastructure & Asset Management Director  
Cabarrus County  
Telephone (704) 920-3201

**ADDITIONS AND DELETIONS:**

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

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

AIA Document A201™–2007, 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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The Construction Manager's Designated Representative:  
*(Name, address and other information)*

Stephen L. Keckeis  
4201 Stuart Andrew Blvd.  
Charlotte NC.28217  
Telephone (704) 679-6000

The Architect's Designated Representative:  
*(Name, address and other information)*

Thomas M. Potts  
405 Capital St.  
Charleston WV. 25301  
Telephone (304) 346-0565

The Owner and Construction Manager agree as follows.

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## TABLE OF ARTICLES

1	GENERAL PROVISIONS
2	CONSTRUCTION MANAGER'S RESPONSIBILITIES
3	OWNER'S RESPONSIBILITIES
4	COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
5	COMPENSATION FOR CONSTRUCTION PHASE SERVICES
6	COST OF THE WORK FOR CONSTRUCTION PHASE
7	PAYMENTS FOR CONSTRUCTION PHASE SERVICES
8	INSURANCE AND BONDS
9	DISPUTE RESOLUTION
10	TERMINATION OR SUSPENSION
11	MISCELLANEOUS PROVISIONS
12	SCOPE OF THE AGREEMENT

## EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

### ARTICLE 1 GENERAL PROVISIONS

#### § 1.1 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 the 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 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. 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.

#### § 1.2 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.

#### § 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™-2007, General Conditions of the Contract for Construction, as modified, which is hereinafter referred to as A201-2017, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2007, which document is incorporated herein by reference. The term "Contractor" as used in A201-2007 shall mean the Construction Manager.

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## ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. 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.

### § 2.1 Preconstruction Phase

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

### § 2.1.2 Consultation

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

§ 2.1.3 When Project requirements in Section 3.1.1 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 could 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 well in advance of construction; and the occupancy requirements of the Owner.

### § 2.1.4 Phased Construction

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

### § 2.1.5 Preliminary Cost Estimates

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

§ 2.1.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

### § 2.1.6 Subcontractors and Suppliers

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

§ 2.1.7 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well 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

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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.

#### **§ 2.1.8 Extent of Responsibility**

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. 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.

#### **§ 2.1.9 Notices and 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 for inclusion in the Contract Documents. The Owner warrants that it has notified the Construction Manager of any special requirements applicable to the Owner or this Project, including, but not limited to, prevailing wage, equal employment opportunity, affirmative action, and minority business enterprise requirements, prior to the execution of this Agreement. The Construction Manager may assume, without independent investigation, that there are no such requirements unless it has been so notified.

#### **§ 2.2 Guaranteed Maximum Price Proposal and Contract Time**

**§ 2.2.1** At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, including contingencies described in Section 2.2.4, and the Construction Manager's Fee.

**§ 2.2.2** To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

**§ 2.2.3** 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 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .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, allowances, contingency, 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.

**§ 2.2.4** In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's exclusive use in its discretion to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order. Some of the items covered by the Construction Manager's contingency are unanticipated changes in the subcontracting marketplace; material cost escalation; unanticipated changes in construction methods; default by a Subcontractor or supplier (unless Construction Manager is using Subcontractor default insurance on this Project); and acceleration costs required to meet the Contract Time. The Construction Manager is not required to use its contingency for costs that are the Owner's responsibility or for which an increase in the Guaranteed Maximum Price is provided under this Agreement, such as design errors or

omissions including code compliance issues; adverse hidden or subsurface conditions; scope changes; delays caused by the Owner or the Architect; changes in government requirements; and uninsured casualty losses not caused by the Construction Manager. The Owner, in its discretion, may establish an Owner's Contingency, which is entirely separate from the Construction Manager's contingency. The Owner's Contingency, if established, is for the Owner's exclusive use in its discretion to add scope to the Project, to pay for unanticipated costs incurred by the Construction Manager that are the Owner's responsibility, or for other purposes that the Owner may designate. The Owner's Contingency is not part of the Guaranteed Maximum Price. If requested by the Owner, the Construction Manager will advise the Owner of the expenditure against the Owner's Contingency on a monthly basis but will not guarantee the sufficiency of the Owner's Contingency for any purpose.

§ 2.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and 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.

§ 2.2.6 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.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications. If the Guaranteed Maximum Price is based on incomplete Drawings and Specifications, the Owner shall cause the Architect to complete such design documents promptly so as to cause no delay. If the final Drawings and Specifications provide for Work that is not reasonably inferable from the Drawings and Specifications identified in the GMP documents, then the Construction Manager shall promptly notify the Owner, and if the Owner does not require the Architect to remove such additional scope, the Guaranteed Maximum Price and Contract Time shall be equitably adjusted.

§ 2.2.9 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.

## § 2.3 Construction Phase

### § 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201-2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

### § 2.3.2 Administration

§ 2.3.2.1 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 by 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. If, however, a Guaranteed Maximum Price has been established, the Owner may not prohibit the Construction Manager from contracting with other qualified bidders. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction

Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (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 of a material nature, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Contract Time and 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 and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3 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 prior consent of the Owner. If the Subcontract is awarded on a cost plus fee basis, 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 Section 6.11 below.

§ 2.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a "related party" according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.

§ 2.3.2.5 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 to the Owner and Architect.

§ 2.3.2.6 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 submittal schedule in accordance with Section 3.10 of A201-2007.

§ 2.3.2.7 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. The Construction Manager shall also 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.

§ 2.3.2.8 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 2.3.2.7 above.

#### § 2.4 Professional Services

Section 3.12.10 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

#### § 2.5 Hazardous Materials

Section 10.3 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

### ARTICLE 3 OWNER'S RESPONSIBILITIES

#### § 3.1 Information and Services Required of the Owner

§ 3.1.1 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.

§ 3.1.2 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

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Owner's obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 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 Section 6.1.1, (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.

§ 3.1.4 **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.

§ 3.1.4.1 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 and abatement of hazardous materials.

§ 3.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a 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 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.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 3.1.4.4 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.

### § 3.2 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 A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 3.2.1 **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.

### § 3.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™-2014, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor

Edition. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

#### ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

##### § 4.1 Compensation

§ 4.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:  
*(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)*

**Hourly Rates:** The Construction Manager's compensation for Preconstruction Phase services shall be based on fixed hourly rates as listed on Addendum A plus any out of pocket expenses (not to exceed a maximum of One Million, Thirty Six Thousand, Nine Hundred Seventy Six Dollars (\$1,036,976.00)) as outlined in Addendum D  
–Preconstruction Budget

If the Construction Phase begins before Preconstruction Phase activities are completed, then both this Section and Section 5.1 shall apply until Preconstruction Phase services are completed.

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within fifteen ( 15 ) 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.

§ 4.1.4 Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager's personnel providing Preconstruction Phase services on the Project and the Construction Manager's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

##### § 4.2 Payments

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

§ 4.2.2 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.)*

One percent (1 % ) per month, or the maximum lawful rate if less.

#### ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 5.1 For the Construction Manager's performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee.

§ 5.1.1 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.)*

**Percentage of GMP:** The Construction Manager's Construction Phase Fee shall be fixed at 3.1% of the Guaranteed Maximum Price (or, if no GMP is established at 3.1 % of the approved budget).

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

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For additive changes in the Work the Fee shall be increased by 3.1% of the related increase in the GMP; however, if changes are so extensive that the Construction Manager's job site staffing must be increased or committed for a longer time than originally scheduled, then the Construction Manager shall be entitled to a reasonable additional Fee in addition to the basic percentage adjustment.

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

Fifteen percent (15%)

§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed the standard rate paid at the place of the Project as further set forth in Section 6.5.2.

§ 5.1.5 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
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**§ 5.2 Guaranteed Maximum Price**

§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Contract Sum exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.

*(Insert specific provisions if the Construction Manager is to participate in any savings.)*

No Saving Split: All savings accrue to the Owner

§ 5.2.2 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

**§ 5.3 Changes in the Work**

§ 5.3.1 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 Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201-2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 5.3.2 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 Section 7.3.3 of AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of AIA Document A201-2007 and the term "costs" as used in Section 7.3.7 of AIA Document A201-2007 shall have the meanings assigned to them in AIA Document A201-2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201-2007 shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 5.1 of this Agreement.

§ 5.3.5 If no specific provision is made in Section 5.1.2 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 5.1.2 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 6 COST OF THE WORK FOR CONSTRUCTION PHASE

### § 6.1 Costs to Be Reimbursed

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred in good faith by the Construction Manager in the proper performance of the Work and in correcting damaged or nonconforming Work to the extent provided in Section 6.7.3. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.2 Where any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

### § 6.2 Labor Costs

§ 6.2.1 Fixed hourly rates as set forth in Addendum B 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.

§ 6.2.2 Fixed hourly rates as set forth in Addendum A of the Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.  
*(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager's principal or other offices shall be included in the Cost of the Work, identify in Section 11.5, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)*

§ 6.2.3 Fixed hourly rates as set forth in Addendum A of the Construction Manager's supervisory or administrative personnel wherever located, but only for that portion of their time required for the Work. This Section 6.2.3 covers the services of home office personnel such as Operations Vice President, Senior Project Executive, and Administrative Support for the Project, and the Building Systems, Economic Inclusion, Estimating, Safety and Scheduling groups, but not the executive officers of the Construction Manager.

§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions are included in the fixed hourly rates under Sections 6.2.1 through 6.2.3.

§ 6.2.5 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, with the Owner's prior approval.

### § 6.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts. If Construction Manager elects not to use Subcontractor default insurance (SDI) on this Project, Construction Manager may bond selected subcontracts and bond costs incurred by the Subcontractors will be included in the Cost of the Work as part of those subcontract amounts. Owner will not be charged for bond costs if Construction Manager elects to bond any Subcontractor on an SDI project.

### § 6.4 Costs of Materials and Equipment Incorporated in the Completed Construction

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

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 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.

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

§ 6.5.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are

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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.

§ 6.5.2 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 costs of transportation, installation, minor repairs, dismantling and removal. Rates of Construction Manager-owned equipment and quantities of equipment shall be subject to the Owner's prior approval and such rates shall not exceed eighty-five percent (85%) of those specified in the current edition of the Equipment Watch rate guide published by Informa (formerly known as the AED Green Book).

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

§ 6.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

§ 6.5.5 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.

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

#### § 6.6 Miscellaneous Costs

§ 6.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval. The Construction Manager's liability insurance shall be charged to the Project at a fixed rate of \$(TBD and agreed upon as part of the first GMP) per \$1,000 of billings. This rate is effective through 9/30/2019 and may be adjusted thereafter to reflect an increase in Construction Manager's standard charges.

If Construction Manager elects to use Subcontractor default insurance (SDI) on this Project, then the Cost of the Work shall include a fixed charge of 1.15% of the total cost of all subcontracts and material supply contracts paid by Construction Manager.

If the Owner elects to have the Construction Manager obtain a Contractor Controlled Insurance Program or similar "wrap" insurance regime for the Project, the costs associated with the same shall be charged to the Project as a Cost of the Work at rates to be agreed upon between Owner and Construction Manager.

§ 6.6.2 Sales, use or similar taxes, imposed by a governmental authority that are related to the Work and for which the Construction Manager is liable. If the Owner claims that the Project or any part thereof is exempt from sales taxes, the Owner shall provide the Construction Manager with a proper exemption certificate before commencement of the Construction Phase.

§ 6.6.3 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.

§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201-2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and 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. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of

Section 3.17 of AIA Document A201–2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

§ 6.6.6 Costs for electronic equipment and software, directly related to the Work with the Owner's prior approval.

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

§ 6.6.8 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.

§ 6.6.9 Subject to the Owner's prior approval, 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 if relocated from distant locations.

#### § 6.7 Other Costs and Emergencies

§ 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ 6.7.2 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 Section 10.4 of AIA Document A201–2007.

§ 6.7.3 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 negligence or failure to fulfill a specific responsibility of 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.

§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2007 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 6.8.

#### § 6.8 Costs Not To Be Reimbursed

§ 6.8.1 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 6.2, or as may be provided in Article 11;
- .2 Expenses of the Construction Manager's principal office and offices other than the site office; except as specifically provided in Sections 6.1 to 6.7;
- .3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;
- .4 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of 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 to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;
- .7 Any deductible payable by Construction Manager under any Subcontractor default insurance policy covering the Project;
- .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 other than as may be specified in Section 4.1.

#### § 6.9 Discounts, Rebates and Refunds

§ 6.9.1 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 them in an Application for Payment and received

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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.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

#### § 6.10 Related Party Transactions

§ 6.10.1 For purposes of Section 6.10, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.

§ 6.10.2 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, 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 Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, 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 Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

#### § 6.11 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, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, 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 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

#### § 7.1 Progress Payments

§ 7.1.1 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.

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

§ 7.1.3 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 certified amount to the Construction Manager not later than the 5th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment 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.)*

§ 7.1.4 If requested by the Owner, the Construction Manager shall submit, with any Application for Payment, evidence that the Construction Manager paid to Subcontractors and material suppliers the amounts that they were entitled to receive out of the previous progress payment received from the Owner. If any Subcontractor, Subcontractor of any

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tier, material supplier, laborer, or other person performing services or providing labor or materials under the Construction Manager files a lien claim against the Project site, and such lien claim does not result from the Owner's failure to make payment when due or other default by the Owner under this Agreement, then the Construction Manager shall promptly settle or bond such lien claim. All expenses reasonably incurred by Construction Manager in bonding, defending against, paying or settling any lien or payment bond claim due to the Owner's failure to pay Construction Manager in accordance with the terms of the Contract Documents shall be included in the Cost of Work, and the Guaranteed Maximum Price shall be increased by the amount of any such expenses incurred due to the Owner's failure to make payment when due or any other default by the Owner under this Agreement.

§ 7.1.5 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 the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 7.1.6 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 percentage of that portion of the Work which has actually been completed.

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

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2007;
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Construction Manager's Fee. The Construction Manager's Fee shall be computed at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of none percent ( 0 %) from that portion of the Work that the Construction Manager self-performs.
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 7.1.8 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, which shall be at five percent (5%) unless a higher percentage is deemed necessary by the Construction Manager in a particular case, and the Construction Manager shall execute subcontracts in accordance with those agreements. At Construction Manager's option, further retainage on any Subcontract may be reduced or eliminated after each Subcontract is fifty percent (50%) completed, as long as the Work is satisfactory; and if requested by the Construction Manager, the Owner agrees to allow release of retainage on any Subcontract which is completed early in the Project if the completed Work under that Subcontract is approved by the Architect.

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

§ 7.1.10 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 shall not be

deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or 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.

## § 7.2 Final Payment

§ 7.2.1 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 Section 12.2.2 of AIA Document A201–2007, 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.

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.

§ 7.2.2 The Owner's auditors will review and report in writing on the Construction Manager's final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, 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 Section 9.5.1 of the AIA Document A201–2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201–2007. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be 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 Section 15.2 of A201–2007. 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.

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager 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 the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

## ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201–2007. The limits for Construction Manager's insurance are set forth in Addendum C. Owner's property insurance shall have a deductible of not more than \$25,000.

*(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007.)*

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**Type of Insurance or Bond**  
Payment and Performance Bonds (if requested by Owner before the GMP is established)

**Limit of Liability or Bond Amount (\$0.00)**  
One hundred percent (100%) of the GMP.

## ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201–2007. 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 9.3 of this Agreement shall not apply.

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:

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

- Arbitration pursuant to Section 15.4 of AIA Document A201–2007
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

### § 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007 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.)*

## ARTICLE 10 TERMINATION OR SUSPENSION

### § 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 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 Section 14.1.1 of A201–2007.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services 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 4.1.

§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 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 10.1.2:

- .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 5.1 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.

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 which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. 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 10, 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.

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.

#### § 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price

Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201–2007.

§ 10.2.1 If the Owner terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.

§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above, except that the Construction Manager's Fee shall be calculated as if the Work had been fully completed by the Construction Manager, utilizing as necessary a reasonable estimate of the Cost of the Work for Work not actually completed.

#### § 10.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

### ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201–2007.

#### § 11.2 Ownership and Use of Documents

Section 1.5 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

#### § 11.3 Governing Law

Section 13.1 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

#### § 11.4 Assignment

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

Except as provided in Section 13.2.2 of A201-2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 11.5 Other provisions:

Owner consents to Construction Manger utilizing its Safety4Site program on this Project.

ARTICLE 12 SCOPE OF THE AGREEMENT

§ 12.1 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.


§ 12.2 The following documents (as modified) comprise the Agreement:

- .1 AIA Document A133-2009, 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 A201-2017, General Conditions of the Contract for Construction. All references to A201-2007 in this Agreement shall be deemed to refer to the corresponding provisions (not necessarily the same section numbers) of A201-2017.
- .3 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:  
  
TBD
- .4 AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:  
  
TBD
- .5 Other documents:  
(List other documents, if any, forming part of the Agreement.)  
  
Addenda A through C.

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

\_\_\_\_\_  
 OWNER (Signature)  
 Michael Downs County Manager  
 (Printed name and title)

  
 CONSTRUCTION MANAGER (Signature)  
 Timothy J. Steigerwald President  
 NC License No. 70194  
 (Printed name and title)

SLK  
 2/27/19  
 MKJ  
 3-1-19  


# AIA<sup>®</sup> Document A201<sup>™</sup> – 2017

## General Conditions of the Contract for Construction

for the following PROJECT:

*(Name and location or address)*

Cabarrus County Courthouse  
77 Union St  
Concord NC.

**THE OWNER:**

*(Name, legal status and address)*

Cabarrus County  
P.O. Box 707  
Street address: 242 General services Dr., Concord NC.28025  
Telephone Number (704) 920-3201

**THE ARCHITECT:**

*(Name, legal status and address)*

Silling Architects, Inc.  
405 Capitol St.  
Charleston WV. 25301

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## ARTICLE 1 GENERAL PROVISIONS

### § 1.1 Basic Definitions

#### § 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

#### § 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

#### § 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

#### § 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

#### § 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

#### § 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

#### § 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

#### § 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

### § 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

### § 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

### § 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

### § 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights. This Section 1.5 is subject to any different terms concerning ownership of Instruments of Service that may be set forth in the Owner-Architect Agreement.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, and of the Architect and the Architect's consultants if they remain the owners of the Instruments of Service under terms of the Owner-Architect Agreement.

### § 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

### § 1.7 Digital Data Use and Transmission

The parties may agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data. If no other protocols are established, the Architect is responsible for issuing digital copies of Contract Documents which conform with the official stamped versions but is not responsible for any modifications thereof made by any other party except at the Architect's direction.

### § 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees, except for the Architect's responsibility to issue any information relating to the model in a manner conforming with official stamped versions of Contract Documents where relevant.

## ARTICLE 2 OWNER

### § 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

### § 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information. "Confidential" information does not include any information which is or becomes readily available to the public, by being filed with permit applications or otherwise, without fault of the Contractor or anyone acting under it.

### § 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements,

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assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 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 Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

#### § 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

#### § 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

### ARTICLE 3 CONTRACTOR

#### § 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

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### § 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15 not later than 21 days after the existence of an error in the Contract Documents is confirmed by the Architect. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

### § 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

### § 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other



facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

**§ 3.4.2** Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

**§ 3.4.3** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

### **§ 3.5 Warranty**

**§ 3.5.1** The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

**§ 3.5.2** All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

### **§ 3.6 Taxes**

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

### **§ 3.7 Permits, Fees, Notices and Compliance with Laws**

**§ 3.7.1** Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

**§ 3.7.2** The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work, without assuming responsibility for any violation of any of the foregoing resulting from adherence to Contract Documents except as provided in Section 3.7.3.

**§ 3.7.3** If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

### **§ 3.7.4 Concealed or Unknown Conditions**

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions; such notice constitutes a Claim and no further notice is required under Section 15.1.3.1 within the time limits of that Section. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect

shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

**§ 3.7.5** If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15 and the Contractor must submit any Claim within 21 days after the Work is resumed.

### **§ 3.8 Allowances**

**§ 3.8.1** The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

**§ 3.8.2** Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

**§ 3.8.3** Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

### **§ 3.9 Superintendent**

**§ 3.9.1** The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

**§ 3.9.2** The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 7 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time, not in excess of an additional 7 days, for review. Failure of the Architect to provide notice within the 7-day period or any extension under subsection (2), as applicable, shall constitute notice of no reasonable objection.

**§ 3.9.3** The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

### **§ 3.10 Contractor's Construction and Submittal Schedules**

**§ 3.10.1** The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

**§ 3.10.2** The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's

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construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the reasonable time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

### § 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

### § 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form set forth in the Contract Documents, or if not so set forth, in a form reasonably specified by the Architect and shall not require the Contractor's design professional to give certifications which exceed the professional standard of care.

### § 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

### § 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

### § 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

### § 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

### § 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

### § 3.18 Indemnification

**§ 3.18.1** To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself or other property of the Owner), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

**§ 3.18.2** In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under constitutional provisions, workers' compensation acts, disability benefit acts, or other employee benefit acts.

## ARTICLE 4 ARCHITECT

### § 4.1 General

**§ 4.1.1** The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

**§ 4.1.2** Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

### § 4.2 Administration of the Contract

**§ 4.2.1** The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

**§ 4.2.2** The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

**§ 4.2.3** On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor,

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and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

#### § 4.2.4 Communications

The Owner and Contractor shall include the Architect in all non-confidential communications that relate to or affect the Architect's services or professional responsibilities or inform the Architect of such direct communications of a material nature. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations

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and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

## ARTICLE 5 SUBCONTRACTORS

### § 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

### § 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time, not in excess of an additional 7 days, for review. Failure of the Architect to provide notice within the 14-day period or any extension under subsection (2), as applicable, shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

### § 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor,

prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

#### § 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

### ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

#### § 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. If the Owner introduces Separate Contractors that were not contemplated in the original Contract Documents, it constitutes a Change in the Work for which the Contractor may make a Claim if delay or additional cost is involved.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

#### § 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly

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notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

### § 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

## ARTICLE 7 CHANGES IN THE WORK

### § 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

### § 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

### § 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the related Cost of the Work, if that term is defined in the Agreement, and otherwise the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

#### § 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for

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minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

## **ARTICLE 8 TIME**

### **§ 8.1 Definitions**

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

### **§ 8.2 Progress and Completion**

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

### **§ 8.3 Delays and Extensions of Time**

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

## **ARTICLE 9 PAYMENTS AND COMPLETION**

### **§ 9.1 Contract Sum**

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

### **§ 9.2 Schedule of Values**

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be

submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

### § 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

### § 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

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## § 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

## § 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than 10 days after receipt of payment from the Owner (or such shorter period as may be required by law), the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. Contractor, at its sole discretion, may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

### § 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

### § 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

### § 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

### § 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;

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- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

### § 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

### § 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

### § 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be



given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

### § 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

### § 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

## ARTICLE 11 INSURANCE AND BONDS

### § 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract

Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner shall be named as additional insured under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents for claims to the extent caused by the Contractor's negligent acts or omissions.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

#### § 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 **Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

#### § 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages

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caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, (3) whether or not the person or entity had an insurable interest in the damaged property, or (4) whether or not the loss was caused in whole or in part by negligence of a person released.

**§ 11.3.2** The Owner shall maintain "all-risk" property insurance in the amount of the replacement value of all property of the Owner at or adjacent to the site, if there is any such property not covered by insurance maintained by the Owner under the Agreement or other Contract Documents. If during the Project construction period the Owner insures or was required to insure properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

#### **§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance**

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

#### **§ 11.5 Adjustment and Settlement of Insured Loss**

**§ 11.5.1** A loss insured under the property insurance required by the Agreement to be maintained by the Owner shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner. If any insurance proceeds are retained by a mortgagee, Contractor has no obligation to perform any related Work unless Owner pays the cost of such Work from other funds.

**§ 11.5.2** Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

**§ 11.5.3** If pursuant to the Contract Documents, any property insurance is to be maintained by the Contractor, then the Contractor rather than the Owner shall have the rights and obligations set forth in Sections 11.5.1 and 11.5.2, with notification of the proposed settlement being provided to the Owner and the Owner having the duty to give notice of any objection under the first three sentences of Section 11.5.2.

## ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

### § 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

### § 12.2 Correction of Work

#### § 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

#### § 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

### § 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## ARTICLE 13 MISCELLANEOUS PROVISIONS

### § 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

### § 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor 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 13.2.2, 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.

§ 13.2.2 The Owner may, without consent of the Contractor, 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 Contractor shall execute all consents reasonably required to facilitate the assignment.

### § 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

### § 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

### § 13.5 Interest

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

## ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

### § 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

### § 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and

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- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

#### § 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

#### § 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

### ARTICLE 15 CLAIMS AND DISPUTES

#### § 15.1 Claims

##### § 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

##### § 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

### § 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

### § 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

### § 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. After establishment of a fixed Contract Sum or Guaranteed Maximum Price (GMP), Contractor assumes the risk of reasonably foreseeable price changes affecting the goods or services to be procured by Contractor for the Work. If unexpected and extraordinary price increases occur due to war, calamity, governmental action, unusual commodity market conditions, or other causes not the fault of Contractor and not reasonably anticipated, then the increased cost in excess of a reasonably foreseeable amount shall be the basis for an increase in the Contract Sum or GMP upon submission of a Claim under this Section.

### § 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

### § 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.



## § 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

## § 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

#### § 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the County where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

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

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

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

#### § 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

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

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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**ADDENDUM A**  
**Messer Construction Co.**  
**Standard Supervisory and Administrative Hourly Rates**

<u>Position</u>	<u>Hourly Rate</u>
Vice President <sup>**</sup> (Executive)	\$225.00
Vice-President <sup>**</sup> (Operations/CPE/BSG)	\$168.00
Senior Project Executive <sup>**</sup>	\$145.00
Preconstruction Manager <sup>**</sup>	\$135.00
Principal Engineer/Estimator/OTS/Dept. Head <sup>**</sup>	\$134.00
General Superintendent <sup>**</sup>	\$129.00
Project Executive <sup>**</sup>	\$125.50
Senior Project Manager <sup>**</sup>	\$112.00
Senior BSG Manager <sup>**</sup>	\$112.00
Senior Superintendent <sup>**</sup>	\$107.50
Building Layout Specialist <sup>**</sup>	\$100.00
Economic Inclusion Specialist <sup>**</sup>	\$97.00
Regional Accounting Coordinator <sup>**</sup>	\$90.00
BSG Manager <sup>**</sup>	\$91.00
Safety Manager <sup>**</sup>	\$91.00
General Foreman <sup>**</sup>	\$89.00
Labor Coordinator <sup>**</sup>	\$89.00
Estimator <sup>*</sup>	\$88.00
Project Manager <sup>*</sup>	\$83.00
Virtual Construction Modeler <sup>**</sup>	\$83.00
Technology Solutions Specialist <sup>**</sup>	\$83.00
Superintendent <sup>*</sup>	\$80.00
BSG Engineer <sup>*</sup>	\$78.00
Project Engineer (Operations/CPE/Safety) <sup>*</sup>	\$67.00
Project Accountant <sup>*</sup>	\$64.00
Project Coordinator	\$46.00
Co-op Engineer	\$40.00

Notes:

1. Rates are fixed through calendar year 2019. Rates are subject to adjustment effective January 1, 2020, and annually thereafter.
2. Rates include all required employer taxes and insurance (FICA, FUTA, SUI, and Workers Comp).
3. Rates include fringe benefits inclusive of Medical, Life, Disability, Retirement, and Vacation. Holiday pay is not included and will be charged to the project separately (six paid holidays annually).
4. Rates include Enterprise-wide technology resources including, hardware, software, and support. Job-specific IT applications (and associated hardware and software for the same) will be charged to the project separately.
5. Rates identified with <sup>\*\*</sup> include smart phones and vehicle expenses (inclusive of insurance, fuel, repairs & maintenance)
6. Rates identified with <sup>\*</sup> include smart phone expenses.
7. Expenses for smart phones or vehicles for individuals not marked with <sup>\*</sup> or <sup>\*\*</sup> are not included and, if required, will be charged to the project separately.
8. Personnel will be billable to the Owner on the basis of 40 hours per week (other than vacation days) for the duration of the full-time assignment regardless of the number of hours actually worked. The 40-hour flat rate billing for such full-time personnel shall not be reduced due to weekday holidays, misc. training or temporary absences, except for vacation days. Personnel not assigned full time to this Project will be billed only for actual hours worked in the interest of this Project.

**ADDENDUM B  
CRAFT FORCE HOURLY RATES**

<u>Position</u>	<u>Hourly Rate</u>
Carpenter Apprentice	\$38.75
Carpenter Journeyman	\$55.50
Carpenter Foreman	\$61.70
Laborer Apprentice	\$38.00
Laborer & Finisher	\$41.00
Laborer Foreman	\$54.30
Operating Engineer	\$65.00

1. Rates are for straight time. Overtime hours are 1.5 times the above rate.
2. Rates are fixed through calendar year 2019. Rates are subject to adjustment effective January 1, 2020, and annually thereafter.
3. Rates are for non-prevailing wage projects.
4. Rates include payroll taxes/insurance and fringe benefits.

**ADDENDUM C**  
**CONSTRUCTION MANAGER INSURANCE COVERAGES**  
(May be modified with inclusion of CCIP at 1<sup>st</sup> GMP approval)

**A. COMMERCIAL GENERAL LIABILITY** (including contractual liability covering Section 3.18 of the General Conditions)

\$1,000,000 Each Occurrence  
\$2,000,000 General Aggregate Limit  
\$1,000,000 Personal and Advertising Injury  
\$2,000,000 Products – Completed Operations Aggregate Limit

**B. AUTOMOBILE LIABILITY**

Bodily Injury and Property Damage Combined: \$1,000,000 Each Accident

**C. EXCESS LIABILITY – Umbrella Form**

Bodily Injury and Property Damage Combined:

\$5,000,000 Each Occurrence  
\$5,000,000 Aggregate

**D. WORKERS' COMPENSATION**

Statutory Requirements

**E. EMPLOYER'S LIABILITY**

\$500,000 Bodily Injury - Each Employee  
\$500,000 Aggregate

**F. ERRORS AND OMISSIONS INSURANCE**

To the extent that the Contract Documents require the Work to be performed on a design/build basis (for example, if mechanical, electrical, or plumbing drawings are required to be stamped by a licensed engineer), Construction Manager agrees to require the applicable Subcontractor to (i) perform such work through licensed professionals, (ii) deliver to Owner properly-stamped drawings showing applicable calculations, and (iii) maintain professional liability insurance applicable to such design work in the amount of at least \$1,000,000 per occurrence. Construction Manager shall have no liability to Owner for any errors or omissions in any design services performed by any Subcontractor or design professionals engaged by it except to the extent that such losses are covered by such liability insurance or are otherwise paid by the applicable Subcontractor.

**CCCH Messer-Liles Preconstruction Budget - Addendum D**



**Anticipated Schedule**

	Start	Completion	
SD	5/1/2019	11/1/2019	
DD	9/1/2019	2/1/2020	
85% Con Doc	1/1/2020	7/1/2020	
GMP-1	11/1/2019	1/1/2020	
GMP-2	5/1/2020	7/1/2020	
GMP -3	7/1/2022	9/1/2022	
Mock ups	6/1/2019	8/1/2019	Allowance
Ph. -1 Const.	4/1/2020	11/1/2020	Not Included

**PRECONSTRUCTION PHASE GMP's - 1 & 2**

Name	Position	Time Commit.	Billing Rate(\$/hr.)	Multiplier 2019	Start Date	Finish Date	Duration (Mo.)	Total Hours	Cost
Steve Keckeis	E.V.P.	0.10	\$ 225.00	1.02	4/1/2019	7/1/2020	15.2	264	\$ 60,588
Chris Malinowski	O.V.P.	0.05	\$ 168.00	1.02	4/1/2019	7/1/2020	15.2	132	\$ 22,620
Bob Williams	E.V.P.	0.05	\$ 225.00	1.02	4/1/2019	7/1/2020	15.2	132	\$ 30,294
Steve Wise - Liles support	Proj Exec	0.10	\$ 125.50	1.02	4/1/2019	7/1/2020	15.2	264	\$ 33,795
BIM Manager	BIM/Virtual Constr Modeler	0.10	\$ 83.00	1.02	4/1/2019	7/1/2020	15.2	264	\$ 22,350
Ron Wagoner	Proj Exec	0.05	\$ 125.50	1.02	4/1/2019	9/1/2019	5.1	44	\$ 5,632
Ron Wagoner	Proj Exec	0.10	\$ 125.50	1.02	9/1/2019	1/1/2020	4.1	70	\$ 8,961
Ron Wagoner	Proj Exec	0.30	\$ 125.50	1.02	1/1/2020	7/1/2020	6.1	315	\$ 40,323
Jason Harris	Proj Exec	0.10	\$ 125.50	1.02	4/1/2019	9/1/2019	5.1	88	\$ 11,265
Jason Harris	Proj Exec	0.40	\$ 125.50	1.02	9/1/2019	12/1/2019	3.0	210	\$ 26,882
Jason Harris	Proj Exec	1.00	\$ 125.50	1.02	12/1/2019	3/1/2020	3.0	526	\$ 67,333
Dave Kylander	Pre Con Manager	0.30	\$ 135.00	1.02	4/1/2019	7/1/2020	15.2	752	\$ 103,550
Will Gharst	Sr. Estimator(SPM)	0.35	\$ 112.00	1.02	4/1/2019	7/1/2020	15.2	924	\$ 105,558
MEP Estimator	Estimator	0.25	\$ 88.00	1.02	4/1/2019	7/1/2020	15.2	660	\$ 59,242
Proj. Man. - Josh Kalinowski	PM	1.00	\$ 83.00	1.02	12/1/2019	7/1/2020	7.1	1230	\$ 104,132
PE	Proj Eng.	1.00	\$ 67.00	1.02	12/1/2019	3/1/2020	3.0	526	\$ 35,947
PMA	Proj Coordinator	1.00	\$ 46.00	1.02	1/1/2020	3/1/2020	2.0	347	\$ 16,281
Safety	Sr EH&S Mgr.	0.20	\$ 91.00	1.02	11/1/2019	3/1/2020	4.0	140	\$ 12,995
Emily Price	Proj Acct	0.10	\$ 64.00	1.02	4/1/2019	3/1/2020	11.2	194	\$ 12,664
Coop	Coop	0.40	\$ 40.00	1.02	12/1/2019	7/1/2020	7.1	492	\$ 20,074
									\$ 800,485
Bob Williams (Credit)	E.V.P.	0.05	\$ 225.00	1.02	4/1/2019	7/1/2020	15.2	132	\$ (30,294)
									\$ 770,191

**PRECONSTRUCTION PHASE GMP - 3**

Dave Kylander	Pre Con Manager	0.30	\$ 135.00	1.10	7/1/2022	9/1/2022	2.1	107	\$ 15,890
Will Gharst	Sr. Estimator	0.50	\$ 112.00	1.10	7/1/2022	9/1/2022	2.1	179	\$ 22,053
MEP Estimator	Estimator	0.40	\$ 88.00	1.10	7/1/2022	9/1/2022	2.1	143	\$ 13,842
									\$ 51,785

**PRECONSTRUCTION ALLOWANCES**

Reimbursable									\$ 20,000
Kick Off / Team Building									\$ 10,000
Mock-ups									\$ 75,000
3rd Party Estimator									\$ 35,000
Envelope Consultant									\$ 75,000
									\$ 215,000

**Total Preconstruction Cost \$ 1,036,976**

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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**AGENDA CATEGORY:**

Discussion Items for Action

**SUBJECT:**

Infrastructure and Asset Management - Means Avenue Resolution

**BRIEF SUMMARY:**

The current design proposal for the new courthouse requires that a segment of Means Avenue be abandoned as a roadway. The part of Means Avenue between Union Street and Church Street would be abandoned and accommodate the footprint of the new courthouse, public pedestrian right-of-way, a public plaza and utility right-of-way. The Concord City Council will consider the request for abandonment. The process includes receiving the request, holding a public hearing and passage of a resolution.

**REQUESTED ACTION:**

Motion to suspend the Rules of Procedure.

Motion to request that the City of Concord close the segment of Means Avenue between Union Street and Church Street.

**EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

**SUBMITTED BY:**

Jonathan Marshall, Deputy County Manager  
Kyle Bilafer, Area Manager of Operations

**BUDGET AMENDMENT REQUIRED:**



No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- ▣ GS 160A-299 Closing Streets and Alleys
- ▣ Resolution

**§ 160A-299. Procedure for permanently closing streets and alleys.**

(a) When a city proposes to permanently close any street or public alley, the council shall first adopt a resolution declaring its intent to close the street or alley and calling a public hearing on the question. The resolution shall be published once a week for four successive weeks prior to the hearing, a copy thereof shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the county tax records, and a notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley. If the street or alley is under the authority and control of the Department of Transportation, a copy of the resolution shall be mailed to the Department of Transportation. At the hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual. If it appears to the satisfaction of the council after the hearing that closing the street or alley is not contrary to the public interest, and that no individual owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the council may adopt an order closing the street or alley. A certified copy of the order (or judgment of the court) shall be filed in the office of the register of deeds of the county in which the street, or any portion thereof, is located.

(b) Any person aggrieved by the closing of any street or alley including the Department of Transportation if the street or alley is under its authority and control, may appeal the council's order to the General Court of Justice within 30 days after its adoption. In appeals of streets closed under this section, all facts and issues shall be heard and decided by a judge sitting without a jury. In addition to determining whether procedural requirements were complied with, the court shall determine whether, on the record as presented to the city council, the council's decision to close the street was in accordance with the statutory standards of subsection (a) of this section and any other applicable requirements of local law or ordinance.

No cause of action or defense founded upon the invalidity of any proceedings taken in closing any street or alley may be asserted, nor shall the validity of the order be open to question in any court upon any ground whatever, except in an action or proceeding begun within 30 days after the order is adopted. The failure to send notice by registered or certified mail shall not invalidate any ordinance adopted prior to January 1, 1989.

(c) Upon the closing of a street or alley in accordance with this section, subject to the provisions of subsection (f) of this section, all right, title, and interest in the right-of-way shall be conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to the street or alley, and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the street or alley.

The provisions of this subsection regarding division of right-of-way in street or alley closings may be altered as to a particular street or alley closing by the assent of all property owners taking title to a closed street or alley by the filing of a plat which shows the street or alley closing and the portion of the closed street or alley to be taken by each such owner. The plat shall be signed by each property owner who, under this section, has an ownership right in the closed street or alley.

(d) This section shall apply to any street or public alley within a city or its extraterritorial jurisdiction that has been irrevocably dedicated to the public, without regard to whether it has actually been opened. This section also applies to unopened streets or public alleys that are shown on plats but that have not been accepted or maintained by the city, provided that this section shall not abrogate the rights of a dedicator, or those claiming under a dedicator, pursuant to G.S. 136-96.

(e) No street or alley under the control of the Department of Transportation may be closed unless the Department of Transportation consents thereto.

(f) A city may reserve a right, title, and interest in any improvements or easements within a street closed pursuant to this section. An easement under this subsection shall include utility, drainage, pedestrian, landscaping, conservation, or other easements considered by the city to be in the public

interest. The reservation of an easement under this subsection shall be stated in the order of closing. The reservation also extends to utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the city.

(g) The city may retain utility easements, both public and private, in cases of streets withdrawn under G.S. 136-96. To retain such easements, the city council shall, after public hearing, approve a "declaration of retention of utility easements" specifically describing such easements. Notice by certified or registered mail shall be provided to the party withdrawing the street from dedication under G.S. 136-96 at least five days prior to the hearing. The declaration must be passed prior to filing of any plat or map or declaration of withdrawal with the register of deeds. Any property owner filing such plats, maps, or declarations shall include the city declaration with the declaration of withdrawal and shall show the utilities retained on any map or plat showing the withdrawal. (1971, c. 698, s. 1; 1973, c. 426, s. 47; c. 507, s. 5; 1977, c. 464, s. 34, 1981, c. 401; c. 402, ss. 1, 2; 1989, c. 254; 1993, c. 149, s. 1; 2015-103, s. 1.)

RESOLUTION OF INTENT

WHEREAS, G.S. 160A-299 authorizes the City Council to close public streets and alleys;  
and

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closure of Means Avenue, S.E. between Church Street North and Union Street, North.

NOW, THEREFORE, BE IT RESOLVED by the City Council that:

(1) A meeting will be held at 6:00 p.m. on the 11<sup>th</sup> day of April, at the City Hall Council Chambers to consider a resolution on the closure of Means Avenue, S.E. the area described as follows:

**NOTE THIS IS A GENERAL DESCRIPTION TO BE REPLACED WHEN CURRENT SURVEY/LEGAL IS FINALIZED**

Lying and being in Number 12 Township, Cabarrus County, City of Concord, North Carolina and being the right-of-way of Means Avenue, SE, lying between Church Street, North and Union Street, North and being more particularly described as follows:

BEGINNING at a point at the intersection of the west right-of-way of Means Avenue, SE and the east right-of-way of Union Street, North, corner of Regen Tag Umbrella, LLC (nor or formerly), as recorded in Deed Book 8384, Page 89, thence along the west right-of-way of Means Avenue, N 46-24-35 W 386+/- feet to a point on the southeast corner of What-A-Burger Drive In No. 2, Inc. (now or formerly) as recorded in Deed Book 602 Page 203), thence crossing Means Avenue, SE in a southeast direction 60+/- feet to a point on the northwest corner of Cabarrus County as recorded in Deed Book 373 Page 618, thence along the west line of Cabarrus County S 46-24-35 W 386+/- feet to a point on the southwest corner of Cabarrus County, thence in a northwest direction, crossing the right-of-way of Means Avenue, SE to point of BEGINNING and containing 0.53 acres +/-.

(2) The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks in The Cabarrus Neighbors or other newspaper of general circulation in the area.

(3) The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of this Resolution of Intent.

(4) The City Clerk is further directed to cause adequate notices of this Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

Adopted this 14<sup>th</sup> day of March, 2019

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

\_\_\_\_\_  
William C. Dusch Mayor

ATTEST:

\_\_\_\_\_  
Kim Deason, Clerk

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Planning and Development - Advisory Board Recommendation Regarding Deferred Tax Funds

### **BRIEF SUMMARY:**

The Board of Commissioners directed staff to engage an advisory committee to make recommendations regarding the use of the Deferred Tax Fund for specific projects. The Soil and Water staff is requesting \$30,000 from the fund to assist with the surveys, environmental assessments, and legal work on two conservation easements. Staff had planned out expenditures so that they fit into the yearly funding, however, the state requirements changed forcing the county to do some of the work earlier than planned.

### **REQUESTED ACTION:**

Motion to adopt budget amendment and project ordinance.

### **EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

### **SUBMITTED BY:**

Kelly Sifford, AICP  
Planning and Development Director

### **BUDGET AMENDMENT REQUIRED:**

Yes

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

---

**ATTACHMENTS:**

- ▣ Memo from Advisory Board
- ▣ Budget Amendment
- ▣ Ordinance



CABARRUS COUNTY  
*America Thrives Here*

# MEMO

TO: Cabarrus County Board of Commissioners

FROM: Kelly Sifford

DATE: 2/18/2019

SUBJECT: Deferred Tax Fund Advisory Committee  
Recommendation

The Cabarrus County Soil and Water Conservation District met with the Deferred Tax Fund Advisory Committee to request a recommendation of providing the Soil and Water District \$30,000 from the Deferred Tax fund to provide for surveys, environmental assessments, and legal costs associated with two agricultural easements that are currently being pursued by the district. Staff had been planning to complete one of the easements next year, however, program requirements have changed requiring the surveys and environmental reviews to be completed this fiscal year. Current funding for that program would not cover that cost this fiscal year. This funding will allow staff to continue on with the project without the risk of not meeting the deadlines. The Advisory Committee recommended unanimously to ask the Board of Commissioners fund this request.

## Budget Revision/Amendment Request

Date:

Amount:

Dept. Head:

Department:

Internal Transfer Within Department     
  Transfer Between Departments/Funds     
  Supplemental Request

Purpose: The Board of Commissioners directed staff to engage an advisory committee to make recommendations regarding the use of the Deferred Tax Fund for specific projects. The Soil and Water staff is requesting \$30,000 from the fund to assist with surveys, environmental assessments and legal work on 2 conservation easements. Staff had planned out expenditures so they would fit into yearly funding, however the state requirement changed forcing the County to do some of the work earlier than planned.

Fund	Indicator	Department/ Object/ Project	Account Name	Approved Budget	Increase Amount	Decrease Amount	Revised Budget
460	6	0000/6023	Deferred Tax Collection	1,864,284.26		30,000.00	1,834,284.26
460	9	0000/9830	Other Improvements	2,226,218.69		30,000.00	2,196,218.69
							0.00
460	6	3270/6023	Deferred Tax Collection	126,000.00	30,000.00		156,000.00
460	9	3270/9445	Purchased Services	142,000.00	30,000.00		172,000.00
							0.00
							0.00
<b>Total</b>							0.00

**Budget Officer**

Approved  
 Denied

**County Manager**

Approved  
 Denied

**Board of Commissioners**

Approved  
 Denied

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*



## CABARRUS COUNTY SMALL PROJECTS CAPITAL PROJECT ORDINANCE

**BE IT ORDAINED**, by the Board of County Commissioners of the County of Cabarrus, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section I.

- A. The project authorized is for the purpose of accumulating and appropriating general fund revenues and federal and state grants funds received specifically for use by the appropriate Cabarrus County Department who has received the funds.
- B. The officers of this unit are hereby directed to proceed with this capital project within the terms of the guidelines as set forth by the federal and state government, Generally Accepted Accounting Principles (GAAP) and the budget contained herein.
- C. It is estimated that the following revenues will be available to complete capital projects as listed:

Board of Elections Department	
Interest on Investments	\$ 34,098
Contribution from General Fund	61,484
Contribution from Capital Reserve	150,000
	\$ 245,582
Register of Deeds Department:	
Register of Deeds Fees	\$1,543,669
Interest on Investments	43,351
Contribution from General Fund	77,505
	\$1,664,525
Soil and Water Department:	
Other Improvement Projects	\$248,441
EEP Contract	16,900
ADFP Grant	60,146
Drill Program Fees	13,100
Suther Farm Project	780,000
Hill Farm Project	116,516
Stewardship Fund	36,421
	\$1,271,524
Local Agricultural Preservation Projects:	
Contribution from General Fund	\$13,800
Deferred Farm Tax Collections	1,897,284
Deferred Farm Tax Interest	304,382
Interest on Investments	32,751
	\$2,248,217
<b>TOTAL REVENUES</b>	<b>\$5,429,848</b>

- D. The following appropriations are made as listed:

Board of Elections Department:	
Board of Elections Equipment and Furniture	\$ 245,582
Register of Deeds Department:	

Register of Deeds Automation & Preservation	\$ 1,664,525
Soil and Water Department:	
Other Improvement Projects	\$248,441
EEP Contract	16,900
ADFP Conservation Easement	60,146
Drill Repair & Maintenance	13,100
Suther Farm Project	780,000
Hill Farm Project	116,516
Stewardship	36,421
	<u>\$1,271,524</u>
Local Agricultural Preservation Projects:	
Other Improvement Projects	\$2,248,217
<b>TOTAL EXPENDITURES</b>	<b>\$5,429,848</b>
<b>GRAND TOTAL – REVENUES</b>	<b>\$5,429,848</b>
<b>GRAND TOTAL – EXPENDITURES</b>	<b>\$5,429,848</b>

Section II.

- A. Special appropriations to non-profit organizations shall be distributed after the execution of an agreement which ensures that all County funds are used for statutorily permissible public purposes.
- B. The County Manager or designee is hereby authorized to transfer appropriations within or between funds, or modify revenue and expenditure projections as contained herein under the following conditions:
  1. The County Manager may transfer amounts between objects of expenditures and revenues within a function without limitation.
  2. The County Manager may transfer amounts up to \$100,000 between functions of the same fund.
  3. The County Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
  4. The County Manager is authorized to transfer funds from the General Fund or Capital Reserve Fund to the appropriate fund for projects approved within the Capital Improvement Plan for the current fiscal year.
  5. Upon notification of funding increases or decreases to existing grants or revenues, or the award of grants or revenues, the Manager or designee may adjust budgets to match, including grants that require a County match for which funds are available.
  6. The County Manager or designee may adjust debt financing from estimated projections to actual funds received.
  7. The County Manager may enter into and execute change orders or amendments to County construction contracts in amounts less than \$90,000 when the

appropriate annual budget or capital project ordinance contains sufficient appropriated but unencumbered funds.

8. The County Manager may award and execute contracts which are not required to be bid or which G.S. 143-131 allows to be let on informal bids so long as the annual budget or appropriate capital project ordinance contains sufficient appropriated but unencumbered funds for such purposes.
9. The County Manager may execute contracts with outside agencies to properly document budgeted appropriation to such agencies where G.S. 153 A-248(b), 259. 449 and any similar statutes require such contracts.
10. The County Manager may reject formal bids when deemed appropriate and in the best interest of Cabarrus County pursuant to G.S. 143-129 (a).
11. The County Manager may reduce revenue projections consistent with prevailing economic conditions, and also reduce expenditures correspondingly.

Section III.

This ordinance and the budget documents shall be the basis of the financial plan for the County of Cabarrus.

- a. The Finance Director is hereby directed to maintain within the Capital Projects Fund sufficient detailed accounting records to satisfy the requirements of the law.
- b. The Finance Officer is directed to report, at the request of the Board, on the financial status of each project element in Section I and on the total revenues received or claimed.
- c. Copies of this capital project ordinance shall be furnished to the Clerk to the Governing Board, and to the Finance Director for direction in carrying out this project.
- d. At the completion of a construction project, all unrestricted excess funds are transferred to the General Fund and the portion of the Capital Project Ordinance associated with the project is closed.

Adopted this 18<sup>th</sup> day of March, 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

Planning and Development - Community Development Block Grant (CDBG) 2010 Project Ordinance and Budget Amendment

### **BRIEF SUMMARY:**

The CDBG 2010 project ordinance will require updating and a budget amendment adopted to allocate program income that has been received. The program income was received from a payoff of a deferred loan. The funds are required to be put back into the program. Staff is recommending \$7,355.00 be added to the CDBG 2010 program fees revenues and sub contractor expenditures.

### **REQUESTED ACTION:**

Motion to accept the funds, and adopt the budget amendment and project ordinance.

### **EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

### **SUBMITTED BY:**

Kelly Sifford, AICP - Planning and Development Director

### **BUDGET AMENDMENT REQUIRED:**

Yes

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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**ATTACHMENTS:**

- ▣ Fund 410 - CDBG 2010 Budget Amendment
- ▣ Fund 410 - CDBG 2010 Project Ordinance



**CABARRUS COUNTY  
COMMUNITY DEVELOPMENT SPECIAL REVENUE  
PROJECT ORDINANCE**

**BE IT ORDAINED** by the Board of Commissioners of the County of Cabarrus, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1. The projects authorized is for the Grant Projects for the purpose of receiving and disbursing funds as directed by Home Program Grant and the Department of Commerce. The projects are referenced in Section 3.

Section 2. The officers of this unit are hereby directed to proceed within the terms of the Generally Accepted Accounting Principles (GAAP), the grant terms, the rules and regulations of the Department of Commerce and the budget contained herein.

Section 3. The following budgeted amounts are appropriated for the projects:

CDBG:	
Sub-Contractor	\$ 42,352
Home 2012:	
Sub-Contractor	117,841
Consultants	5,570
Home 2015:	
Sub-Contractor	159,887
Consultants	5,423
Home 2016:	
Sub-Contractor	119,392
Consultants	<u>5,682</u>
 Total	 \$ <u>456,147</u>

Section 4. The following budgeted revenues are anticipated to be available to complete these projects.

CDBG:	
Program Fees	\$ 42,352
Home 2012:	
Home Consortium Revenues	98,411
Contribution from General Fund	25,000
Home 2015:	
Home Consortium Revenues	95,815
Program Fees	44,495
Contribution from General Fund	25,000
Home 2016:	
Home Consortium Revenues	100,074
Contribution from General Fund	<u>25,000</u>
 Total	 \$ <u>456,147</u>

Section 5. The Finance Officer is hereby directed to maintain within the Grant Project sufficient detailed accounting records to satisfy the terms of any debt financing resolutions and any grant agreements or federal and State regulations.

Section 6. Funds may be advanced from the General Fund for the purpose or making payments as due. Reimbursement requests should be made to the granter agencies in an orderly and timely manner.

Section 7. The Finance Officer is directed to report, at the request of the Board, on the financial status of each project element in Section 3 and on the total revenues received or claimed.

Section 8. Copies of this grant project ordinance shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out the projects.

Section 9. At the completion of each individual project, all unrestricted excess funds are transferred to the General Fund and the Grant Project Ordinance is closed.

Section 10. The County Manager is hereby authorized to transfer revenues and appropriation within an ordinance as contained herein under the following conditions:

- a. The Manager may transfer amounts between objects of expenditures and revenues within a function without limitation.
- b. The Manager may transfer amounts up to \$100,000 between functions of the same ordinance.
- c. The Manager may transfer amounts between contingency funds which are set aside for a specific project for budgetary shortfalls or upon the appropriate approval of a change order.
- d. The Manager may either enter into and execute change orders or amendments to County construction contracts in amounts up to \$90,000 when the project ordinance contains sufficient appropriated but unencumbered funds.

Adopted this 18th day of March, 2019.

CABARRUS COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Stephen M. Morris, Chairman

ATTEST:

\_\_\_\_\_  
Clerk to the Board



# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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### **AGENDA CATEGORY:**

Discussion Items for Action

### **SUBJECT:**

BOC - Appointments to Boards and Committees

### **BRIEF SUMMARY:**

The following appointments to Boards and Committees are recommended for March.

#### Adult Care Home Community Advisory Committee

Andrea Johnson has completed her orientation class, been certified by the State Ombudsman and is now eligible to be appointed to the Adult Care Home Community Advisory Committee.

Representative recommendation is Andrea Johnson.

#### Agricultural Advisory Board

The terms of appointment on the Agricultural Advisory Board for Eddie Moose and Tommy Barbee expired January 31, 2019. Both are willing to serve another term. A letter of recommendation regarding their reappointment is included in the agenda. Both have served since 2010. An exception to the "length of service" provision of the Appointment Policy will be needed for them.

Representative recommendations are Eddie Moose and Tommy Barbee.

#### Mental Health Advisory Board

An application to serve on the Mental Health Advisory Board as a Cabarrus County Schools representative has been received from Amy Jewell. John Basilice currently serves in this capacity, but will be moving to the secondary position.

Representative recommendation is Amy Jewell

Nursing Home Community Advisory Committee

Nursing Home Community Advisory Board members Sylvia Currie-Johnson and Karen Thompson have terms expiring in March and April Both would like to serve another term. Each have served since 2009. An exception to the "length of service" provision of the Appointment Policy will be needed for them.

Representative recommendations are Sylvia Currie-Johnson and Karen Thompson.

Senior Centers Advisory Council

Sherman Childers, has resigned from his position on the Senior Centers Advisory Council. It is requested to remove his name from the roster.

An application has been received from Ronnie Tucker to serve on the Advisory Council. A letter of recommendation in regards to his appointment to complete Mr. Childers unexpired term is included in the agenda.

Representative recommendation is Ronnie Tucker.

**REQUESTED ACTION:**

Provide information.

**EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

**SUBMITTED BY:**

Lauren Linker, Clerk to the Board

**BUDGET AMENDMENT REQUIRED:**

No

**COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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# CABARRUS COUNTY



## BOARD OF COMMISSIONERS WORK SESSION

**March 11, 2019  
4:00 PM**

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### **AGENDA CATEGORY:**

Approval of Regular Meeting Agenda

### **SUBJECT:**

BOC - Approval of Regular Meeting Agenda

### **BRIEF SUMMARY:**

The proposed agenda for the March 18, 2019 regular Board of Commissioners' meeting is attached.

### **REQUESTED ACTION:**

Motion to approve the agenda for the March 18, 2019 regular meeting.

### **EXPECTED LENGTH OF PRESENTATION:**

1 Minute

### **SUBMITTED BY:**

Lauren Linker, Clerk to the Board

### **BUDGET AMENDMENT REQUIRED:**

No

### **COUNTY MANAGER'S RECOMMENDATIONS/COMMENTS:**

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### **ATTACHMENTS:**

- Proposed March 18, 2019 Agenda

# CABARRUS COUNTY



## BOARD OF COMMISSIONERS REGULAR MEETING

**March 18, 2019  
6:30 PM**

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### MISSION STATEMENT

THROUGH VISIONARY LEADERSHIP AND GOOD STEWARDSHIP, WE WILL ADMINISTER STATE REQUIREMENTS, ENSURE PUBLIC SAFETY, DETERMINE COUNTY NEEDS, AND PROVIDE SERVICES THAT CONTINUALLY ENHANCE QUALITY OF LIFE

### CALL TO ORDER BY THE CHAIRMAN

### PRESENTATION OF COLORS

### INVOCATION

Pastor Joe DeJesus, Concord First Assembly

### A. APPROVAL OR CORRECTIONS OF MINUTES

1. Approval or Correction of Meeting Minutes

### B. APPROVAL OF THE AGENDA

### C. RECOGNITIONS AND PRESENTATIONS

1. Proclamation - National Donate Life Month April 2019
2. Presentation - Extension and Community Association
3. Communications and Outreach – Excellence in Communications Awards

### D. INFORMAL PUBLIC COMMENTS

### E. OLD BUSINESS

### F. CONSENT AGENDA

*(Items listed under consent are generally of a routine nature. The Board may take action to approve/disapprove all items in a single vote. Any item may be withheld from a general action, to be discussed and voted upon separately at the discretion of the Board.)*

1. Appointments - Adult Care Home Community Advisory Committee
2. Appointments - Agriculture Advisory Board

3. Appointments - Mental Health Advisory Board
4. Appointments - Nursing Home Community Advisory Committee
5. Appointments and Removals - Cabarrus County Senior Centers Advisory Council
6. Cabarrus County Schools - Increase Funding for 124 New Charter School Students Based on the Better of 1st or 2nd Month ADM Count
7. County Manager - Odell Sewer and Right of Way Easements
8. County Manager - Water Line Easement West Cabarrus High School
9. Emergency Management – Fire Services Overview: Consideration for Completion of Fire Manpower Program Proposal
10. EMS - Zoll Cardiac Monitor Purchase
11. Finance - Adjust Soil and Water Prime Farmland Funding to the Capital Improvement Plan Level
12. Finance - North Carolina Education Lottery Payment Applications for School Debt Service
13. Finance - Balance of FY19 Construction Funding for West Cabarrus High School and Hickory Ridge Elementary School
14. Finance - Updates to the School Construction Fund and Construction and Renovation Fund
15. Finance – Partial funding for the new Courthouse Architect, Pre-Construction Administration contracts, Engineering and Other Improvements
16. Human Resources - Health Insurance Renewal FY20
17. Infrastructure and Asset Management - Courthouse Expansion Construction Manager at Risk Contract
18. Planning and Development - Advisory Board Recommendation Regarding Deferred Tax Funds
19. Planning and Development - Community Development Block Grant (CDBG) 2010 Project Ordinance and Budget Amendment
20. Tax Administration - Refund and Release Reports - February 2019

**G. NEW BUSINESS**

1. County Manager - Offer to Purchase County Property off Bradford Road

**H. REPORTS**

1. BOC - Receive Updates From Commission Members who Serve as Liaisons to Municipalities or on Various Boards/Committees
2. BOC - Request for Applications for County Boards/Committees
3. County Manager - Monthly Building Activity Reports
4. County Manager - Monthly New Development Report
5. EDC - February 2019 Monthly Summary Report
6. Finance - Monthly Financial Update

**I. GENERAL COMMENTS BY BOARD MEMBERS**

**J. WATER AND SEWER DISTRICT OF CABARRUS COUNTY**

**K. CLOSED SESSION**

**L. ADJOURN**

**Scheduled Meetings**

<b>April 1</b>	<b>Work Session</b>	<b>4:00 p.m.</b>	<b>Multipurpose Room</b>
<b>April 15</b>	<b>Regular Meeting</b>	<b>6:30 p.m.</b>	<b>BOC Meeting Room</b>
<b>May 6</b>	<b>Work Session</b>	<b>4:00 p.m.</b>	<b>Multipurpose Room</b>
<b>May 8</b>	<b>Cabarrus Summit</b>	<b>6:00 p.m.</b>	<b>TBD</b>
<b>May 20</b>	<b>Regular Meeting</b>	<b>6:30 p.m.</b>	<b>BOC Meeting Room</b>
<b>May 28</b>	<b>Budget Meeting</b>	<b>4:00 p.m.</b>	<b>Multipurpose Room</b>
<b>May 30</b>	<b>Budget Meeting</b>	<b>4:00 p.m.</b>	<b>Multipurpose Room</b>

**Mission:** Through visionary leadership and good stewardship, we will administer state requirements, ensure public safety, determine county needs, and provide services that continually enhance quality of life.

**Vision:** Our vision for Cabarrus is a county where our children learn, our citizens participate, our dreams matter, our families and neighbors thrive, and our community prospers.

**Cabarrus County Television Broadcast Schedule  
Cabarrus County Board of Commissioners' Meetings**

The most recent Commissioners' meeting is broadcast at the following days and times. Agenda work sessions begin airing after the 1st Monday of the month and are broadcast for two weeks up until the regular meeting. Then the regular meeting begins airing live the 3rd Monday of each month and is broadcast up until the next agenda work session.

<b>Sunday - Saturday</b>	<b>1:00 P.M.</b>
<b>Sunday - Tuesday</b>	<b>6:30 P.M.</b>
<b>Thursday &amp; Friday</b>	<b>6:30 P.M.</b>

In accordance with ADA regulations, anyone who needs an accommodation to participate in the meeting should notify the ADA Coordinator at 704-920-2100 at least forty-eight (48) hours prior to the meeting.