

TUSCALOOSA COUNTY COMMISSION
MEETING
MAY 18, 2022

TUSCALOOSA COUNTY §
STATE OF ALABAMA §

This being the date and hour to which the Tuscaloosa County Commission adjourned; the County Commission met pursuant to such adjournment with Probate Judge Rob Robertson presiding as Chairman. The following members were present:

Stan Acker
Jerry Tingle
Mark C. Nelson
Reginald Murray

Commissioner Jerry Tingle moved, seconded by Commissioner Stan Acker, the County Commission voted unanimously to approve the minutes of May 4, 2022.

Commissioner Reginald Murray moved, seconded by Commissioner Jerry Tingle, the County Commission voted unanimously to go into executive session prior to the end of this meeting to discuss legal matters and contract negotiations.

Commissioner Stan Acker moved, seconded by Commissioner Mark C. Nelson, the County Commission voted unanimously to approve a cost-of-living bonus for County retirees as authorized by The Legislature at a cost of \$172,544.00 to the County, the proceeds to be paid out October 1, 2022.

Commissioner Jerry Tingle moved, seconded by Commissioner Mark C. Nelson, the County Commission voted unanimously to declare Lot No. 6, Block 1, Hulsey's Holt Subdivision No. 1 as surplus and post it for auction with the minimum bid set at \$5,000.00.

Exhibit 5-2, Page

Commissioner Mark C. Nelson moved, seconded by Commissioner Stan Acker, the County Commission voted unanimously to adopt a resolution approving and accepting the preliminary plat submission for Dockery Place, resurvey of lots 1 and 2, District III.

Exhibit 5-3, Page

Commissioner Jerry Tingle moved, seconded by Commissioner Stan Acker, the County Commission voted 3-to-1 to approve the warrants issued to cover Tuscaloosa County's expenditures for April 2022, with Commissioner Reginald Murray casting the "NAY" vote.

Exhibit 5-4, Page

Commissioner Jerry Tingle moved, seconded by Commissioner Reginald Murray, the County Commission voted unanimously to begin condemnation proceedings on a structure at 3101 NE Pine Crest Rd, Holt, District II.

Commissioner Reginald Murray moved, seconded by Commissioner Jerry Tingle, the County Commission voted unanimously to approve Hall Taylor Construction as the construction manager for the Tuscaloosa County Jail Secure Behavior and Medical Unit, as presented by Chief Loyd Baker.

Exhibit 5-5, Pages

Commissioner Reginald Murray moved, seconded by Commissioner Mark C. Nelson, the County Commission voted unanimously to declare the Sheriff's Office Hangars at the Tuscaloosa Municipal Airport as surplus and authorize them for sale with the minimum set at \$733,000.00.

Commissioner Stan Acker moved, seconded by Commissioner Jerry Tingle, the County Commission voted unanimously to approve McGiffert and Associates as the topographical engineering firm for the Tuscaloosa County Jail Secure Behavior and Medical Unit in an amount not to exceed \$19,600.00.

Exhibit 5-6, Pages

Commissioner Mark C. Nelson moved, seconded by Commissioner Jerry Tingle, the County Commission voted unanimously to authorize purchase of a parcel of about 27 acres across from Maxwell Elementary School to allow more parking for the school. The purchase price is \$250,000.00 with \$125,000.00 from the District III American Rescue Plan Act Revenue Replacement fund and \$125,000.00 from the Tuscaloosa County Board of Education.

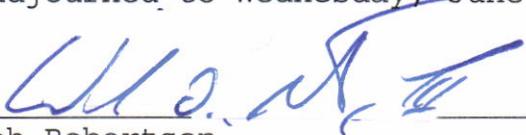
Exhibit 5-7, Pages

Commissioner Reginald Murray moved, seconded by Commissioner Jerry Tingle, the County Commission voted unanimously to depart from the order of business set forth in the official agenda to consider funding the Summer Youth Job Program through PARA.

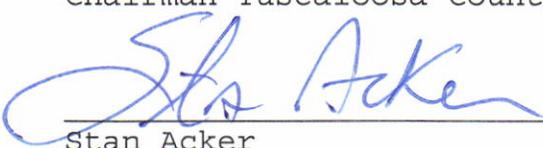
Commissioner Reginald Murray moved, seconded by Commissioner Jerry Tingle, the County Commission voted unanimously to approve funding in the amount of \$25,000.00 from the District IV discretionary fund to PARA for the Summer Youth Jobs Program.

The Commission retired into executive session and did not reconvene.

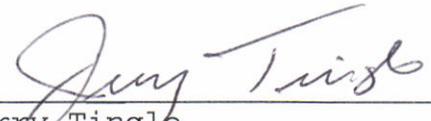
There being no further business to come before the Tuscaloosa County Commission, the meeting adjourned to Wednesday, June 1, 2022.



Rob Robertson
Judge of Probate
Chairman Tuscaloosa County Commission



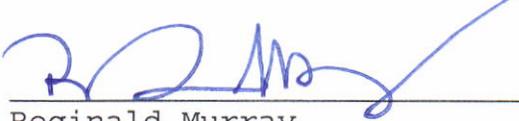
Stan Acker
Commissioner - District I



Jerry Tingle
Commissioner - District II



Mark C. Nelson
Commissioner - District III



Reginald Murray
Commissioner - District IV

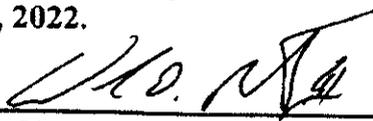
MODEL RESOLUTION--ACT 2022-229
(Local Unit Retirees and Beneficiaries of Deceased Retirees)

Be it resolved that the TUSCALOOSA COUNTY COMMISSION,
through its governing authority, elects to come under the provisions of
Section 2 of Act 229 of the Regular Session of the 2022 Legislature.

The TUSCALOOSA COUNTY COMMISSION agrees to provide
all funds necessary to the Employees' Retirement System to cover the
cost of the one-time lump sum payment as provided for by this Act for
those eligible retirees and beneficiaries of deceased retirees of
TUSCALOOSA COUNTY COMMISSION with the
aforementioned lump sum payment being paid in October 2022.

CERTIFICATION

I, ROB ROBERTSON, CHAIRMAN, TUSCALOOSA CO COMMISSION, hereby certify that
the foregoing is a true and correct copy of the Resolution passed
on this 18 day of MAY, 2022.



Signature of Official

JUDGE OF PROBATE AND CHAIRMAN
Official Title

EF 5-1

Res & Check mailed
on 5-25-22

006031

ACCOUNTS PAYABLE

Questions? Email the Tuscaloosa County Commission at payables@tuscco.com

DATE 05/25/22 VENDOR NO. 1805 CHECK NO. 006031

INVOICE DATE	INVOICE NUMBER	AMOUNT PAID	REMARKS
05/25/22	1805-12412	172544.00	ONE TIME PAYMENT EMP RETIREMENT SYSTEM
CHECK TOTAL		**172,544.00	



Tuscaloosa County Commission

P.O. Box 20113
Tuscaloosa, AL. 35402-0113

SMARTBANK
PO BOX 1910
PIGEON FORGE, TN 37868

Check No. 006031
VOID CHECK IF OVER **172,544.00

DATE	AMOUNT
05/25/22	**172,544.00

PAY ***172,544 Dollars and NO Cents

TO THE ORDER OF

RETIREMENT SYSTEMS OF ALABAMA
GEORGE FROST
PO BOX 302150
MONTGOMERY AL 361302150

Wood P. Selmon, III
April L. Hoffman

⑈006031⑈ ⑆064209216⑆ 1090441336⑈

See Reverse Side For Easy Opening Instructions



Tuscaloosa County Commission

P.O. Box 20113
Tuscaloosa, AL, 35402-0113

006031

RETIREMENT SYSTEMS OF ALABAMA
GEORGE FROST
PO BOX 302150
MONTGOMERY AL 361302150

05-1

U.S. FAL ON 8-08-2017
Kantor W-10-2017
S/N: 7811R240
WFO (880) 7/25 • 112-VG

DEED Book 2016 Page 22314

Recorded: 10/10/2016 12:47:25 PM
W. Hardy McCollum, Probate Judge
Tuscaloosa County, Alabama
Term/Cashier: PRO-RECORDING1/JMCATEER
Tran: 970696
Probate Judge Fee \$2.00
Recording Fee - By Page Count \$6.00
Source of Title \$1.00
No Tax Collected
Total: \$9.00

THIS INSTRUMENT PREPARED WITHOUT BENEFIT
OF TITLE EXAMINATION OR SURVEY BY:

Robert M. Spence
ROSEN HARWOOD
2200 Jack Warner Pkwy, Suite 200
Tuscaloosa, AL 35401

SOURCES OF TITLE: Deed Book 1113 at Page 593

STATE OF ALABAMA

COUNTY OF TUSCALOOSA

**NO TAX
COLLECTED**

QUIT CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, that **Mary A. White, an unmarried woman, by Costella C. Harris, her Attorney in Fact** (hereinafter "Grantor") for and in consideration of the sum of Ten and no/100 (\$10.00) Dollars, to her, in hand paid by **Tuscaloosa County, Alabama, a political subdivision of the State of Alabama**, (hereinafter "Grantee"), the receipt and sufficiency whereof is hereby acknowledged, does hereby remise, release, and forever quit claim unto Grantee, all of her right, title and interest in and to the following land lying and being in the County of Tuscaloosa, State of Alabama, and being more particularly described as follows, to-wit:

Lot no. 6, Block 1 of the Hulsey's Holt Subdivision No. 1, a map or plat of which is recorded in Plat Book 5, at Page 71 in the Probate Office of Tuscaloosa County, Alabama, which said map or plat is hereby made in aid of and as part of this description.

Said property and this conveyance are subject to the utility easements reserved in the recorded plat thereof and is also subject to all limitations, restrictions, and provisions contained in the deed dated August 2, 1941, of William H. Hulsey and others to A.J. Weller, which deed is recorded in Deed Book 209, at Page 580, in the Probate Office of Tuscaloosa County, Alabama.

This conveyance is made subject to restrictive covenants, rights of way easements and reservations of record that apply to the real property herein conveyed.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals on this the 17th day of September, 2016


Mary A. White, by Costella C. Harris, her
Attorney in Fact

265-2

STATE OF ALABAMA §

TUSCALOOSA COUNTY §

RESOLUTION ACCEPTING PRELIMINARY PLAT

**Dockery Place
Resurvey of Lots 1 and 2**

WHEREAS, the County Engineer has reported to the Tuscaloosa County Commission that the developer has complied with all Tuscaloosa County Subdivision related to the preparation and presentation of a preliminary plat for a new development or the extension of an existing development; and

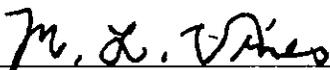
WHEREAS, the Tuscaloosa County Commission has been presented with the preliminary plat and accompanying information, and determines that there is no just reason to withhold approval of the preliminary plat.

NOW, THEREFORE, IT BE RESOLVED BY THE TUSCALOOSA COUNTY COMMISSION that the preliminary plat recommended for approval by the Tuscaloosa County Engineer is approved and accepted

Approved and accepted at our regularly scheduled meeting on this the 18th day of May, 2022



Ward D. "Rob" Robertson III, Chairman
Tuscaloosa County Commission



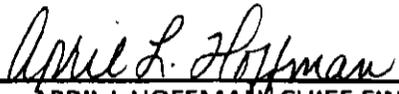
Melvin L. Vines
County Administrator

EX 5-3

APPROVAL OF WARRANTS
April 2022

ACCOUNT	CHECK NUMBERS	AMOUNT
AP CLEARING	4908 - 5473	\$4,378,433.87
PAYROLL CLEARING - AP	97997 - 98039	\$1,865,878.91
PAYROLL CLEARING - PAYROLL ACH	19942 - 20897	\$1,606,940.61
PAYROLL CLEARING - PAYROLL CHECKS	66453 - 66470	\$22,049.65
		\$7,873,303.04

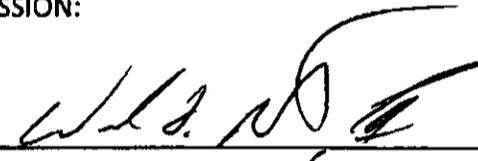
REVIEWED BY:



APRIL L. HOFFMAN, CHIEF FINANCIAL OFFICER

APPROVED BY TUSCALOOSA COUNTY COMMISSION:

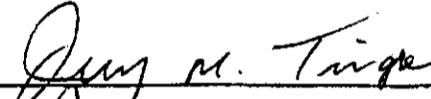
CHAIRMAN, ROB ROBERTSON



COMMISSIONER, STAN ACKER



COMMISSIONER, JERRY TINGLE



COMMISSIONER, MARK C. NELSON



COMMISSIONER, REGINALD MURRAY

EX 5-4

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA



**STANDARD FORM OF CONSTRUCTION
MANAGEMENT AGREEMENT BETWEEN
OWNER AND CONSTRUCTION MANAGER**
(Where The Construction Manager Is The Owner's Agent
And The Owner Enters Into All Trade Contractor Agreements)

TABLE OF ARTICLES

1. AGREEMENT
2. RELATIONSHIP OF PARTIES AND EXTENT OF AGREEMENT
3. CONSTRUCTION MANAGER'S SERVICES
4. OWNER'S RESPONSIBILITIES
5. TRADE CONTRACTOR AGREEMENTS
6. WARRANTY
7. CONSTRUCTION MANAGER'S COMPENSATION
8. REIMBURSABLE COSTS
9. PAYMENTS TO THE CONSTRUCTION MANAGER
10. INDEMNITY, INSURANCE AND WAIVER OF SUBROGATION
11. TERMINATION OF THE AGREEMENT AND OWNER'S RIGHT
TO PERFORM CONSTRUCTION MANAGER'S OBLIGATIONS
12. DISPUTE RESOLUTION
13. MISCELLANEOUS PROVISIONS
14. ADDITIONAL PROVISIONS

This Agreement has important legal and insurance consequences. Consultation with an attorney and insurance consultant is encouraged with respect to its completion or modification.

AGC DOCUMENT NO. 510 • STANDARD FORM OF CONSTRUCTION MANAGEMENT AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER
(Where The Construction Manager Is The Owner's Agent And The Owner Enters Into All Trade Contractor Agreements)
© 1997, The Associated General Contractors of America

EX 5-5

**STANDARD FORM OF CONSTRUCTION MANAGEMENT
AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER**
(Where The Construction Manager Is The Owner's Agent
And The Owner Enters Into All Trade Contractor Agreements)

ARTICLE 1

AGREEMENT

This Agreement is made effective as of the FIRST day of MAY
in the year 2022, by and between the

OWNER

(Name and Address)

Tuscaloosa County Commission
1600 26th Avenue
Tuscaloosa, AL 35401

and the
CONSTRUCTION MANAGER
(Name and Address)

Hall-Taylor Construction Company, Inc.
4703 Fosters Industrial Lane
Tuscaloosa, AL 35401

for construction management services in connection with the following
PROJECT
(Description of Project)

Tuscaloosa County Jail

The **ARCHITECT/ENGINEER** for the Project is
(Name and Address)

JMR+H Architecture, PC
445 Dexter Avenue Ste 5050
Montgomery, AL 36104

Notice to the parties shall be given at the above addresses.

EX-5

ARTICLE 2

RELATIONSHIP OF PARTIES AND EXTENT OF AGREEMENT

The Construction Manager and Owner accept the relationship of trust, good faith and fair dealing established by this Agreement and shall cooperate with each other and with the Architect/Engineer in furthering the Owner's interests. The Construction Manager shall be the Owner's agent and shall exercise its skill and judgment in furnishing construction administrative and management services and shall perform its Services in an expeditious and economical manner. The Owner shall promote harmony and cooperation among the Owner, Construction Manager, Architect/Engineer and other persons or entities employed by the Owner for the Project.

2.1 EXTENT OF AGREEMENT This Agreement represents the entire agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations and agreements. This Agreement consists of this document and any additional documents specifically identified and incorporated into this Agreement in Paragraph 13.15. This Agreement shall not be superseded by any provisions of the Construction Documents and may be amended only by written instrument signed by both the Owner and Construction Manager. In the event of conflict between this Standard Form of Construction Management Agreement Between Owner and Construction Manager and any of the Exhibits hereto or any other documents incorporated into this Agreement, the terms and provisions of this Standard Form of Construction Management Agreement Between Owner and Construction Manager shall control.

2.2 DEFINITIONS AND REFERENCES

2.2.1 ADDITIONAL SERVICES Additional Services are defined in Paragraph 3.3.

2.2.2 ARCHITECT/ENGINEER The Architect/Engineer identified in Article 1 is the entity responsible for all the design and engineering necessary for the Project, including the preparation of the Construction Documents.

2.2.3 CONSTRUCTION BUDGET Construction Budget is defined in Clause 3.1.4.4.

2.2.4 CONSTRUCTION DOCUMENTS Construction Documents are the plans, specifications and other documents provided by the Owner which delineate the design and specify other necessary requirements relating to the construction of the Project.

2.2.5 DAY The term day shall mean calendar day unless otherwise specifically designated.

2.2.6 FEE Fee is defined in Subparagraph 7.4.1.

2.2.7 GENERAL CONDITIONS ITEMS General Conditions Items as used herein shall mean the provision of facilities or performance of work by the Construction Manager for items which do not readily lend themselves to inclusion in one of the separate Trade Contractor Agreements or other items as may be mutually agreed upon in writing between the Owner and Construction Manager. General Conditions Items may include but are not necessarily limited to the following: incidental construction work; preparation for ceremonies; signs; watchmen; photographs; field office(s) and related costs thereof such as equipment, furnishings and office supplies; temporary toilets; communication equipment; temporary utility services; clean-up; refuse removal services; trash chutes; surveys; testing; temporary roads and parking.

2.2.8 HAZARDOUS MATERIAL A Hazardous Material is any substance or material identified now or in the future as toxic or hazardous under any federal, statute or local law or regulation, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal and/or clean-up.

2.2.9 OWNER'S PROGRAM The Owner's Program is an initial description of the Owner's objectives, including budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, site requirements, and any requirements for phased occupancy.

2.2.10 PROJECT The Project, as identified in Article 1, is the building, facility and/or other improvements for which the Construction Manager is to provide Services under this Agreement.

2.2.11 PROJECT SCHEDULE Project Schedule is defined in Subparagraph 3.1.3.

2.2.12 REIMBURSABLE COSTS Reimbursable Costs are defined in Article 6.

2.2.13 SERVICES The Services are the construction management Services and the General Conditions Items provided by the Construction Manager under this Agreement.

2.2.14 SUBSTANTIAL COMPLETION The date of Substantial Completion of the Project or a designated portion thereof is the date when construction is sufficiently complete in accordance with the Construction Documents so the Owner can occupy or utilize the Project or designated portion thereof for its intended use.

2.2.15 TRADE CONTRACTORS Trade Contractors are defined in Paragraph 5.1.

EX 5-5

2.2.16 TRADE CONTRACTOR AGREEMENTS Trade Contractor Agreements are defined in Paragraph 5.2.

2.2.17 WORK The Work is all of the construction, work, labor, materials, machinery, equipment, tools, supplies, services and other items provided by the Trade Contractors.

2.2.18 DIRECT PERSONNEL EXPENSE Direct Personnel Expense is defined in Clause 8.1.3.1.

ARTICLE 3

CONSTRUCTION MANAGER'S SERVICES

The Construction Manager shall provide the following Services.

3.1 PRECONSTRUCTION PHASE SERVICES

3.1.1 PRELIMINARY EVALUATION The Construction Manager shall provide a preliminary evaluation of the Owner's Program.

3.1.2 CONSULTATION The Construction Manager shall schedule and attend regular meetings with the Owner and Architect/Engineer. The Construction Manager shall consult with the Owner and Architect/Engineer regarding site use and improvements, and the selection of materials, building systems and equipment. The Construction Manager shall provide recommendations on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost, including estimates of alternative designs or materials.

3.1.3 PROJECT SCHEDULE When Project requirements have been sufficiently identified, the Construction Manager shall prepare a preliminary Project Schedule for the Architect/Engineer's review and the Owner's approval. The Construction Manager shall coordinate and integrate the Project Schedule with the services and activities of the Owner, Construction Manager, Architect/Engineer, and the requirements of governmental entities. As design proceeds, the Construction Manager shall update the Project Schedule to indicate proposed activity sequences, durations, and/or milestone dates for such activities as receipt and approval of pertinent information, issuance of the Construction Documents, the preparation and processing of shop drawings and samples, delivery of materials or equipment requiring long-lead time procurement, Owner's occupancy requirements and estimated date of Substantial Completion of the Project. If Project Schedule updates indicate that milestone dates contained in prior Project Schedules will not be met, the Construction Manager shall notify and make recommendations to the Owner. If the Project is to be completed in phases, the

Construction Manager shall make recommendations to the Owner and Architect/Engineer regarding the phased issuance of Construction Documents.

3.1.4 BUDGETS

.1 When the Owner has sufficiently identified the Owner's Program and other Project requirements and the Architect/Engineer has prepared other basic design criteria, the Construction Manager shall prepare, for the review of the Architect/Engineer and approval of the Owner, an initial budget for the Project, utilizing area, volume or similar conceptual estimating techniques.

.2 When schematic or preliminary design documents have been completed by the Architect/Engineer and approved by the Owner, the Construction Manager shall prepare for the review of the Architect/Engineer and approval of the Owner, a more detailed budget with supporting data including, where possible, data from potential Trade Contractors. During the preparation of the design development documents or documents of comparable detail, the Construction Manager shall update and refine this budget at appropriate intervals agreed upon by the Owner and Construction Manager.

.3 When design development documents or documents of comparable detail have been completed by the Architect/Engineer and approved by the Owner, the Construction Manager shall prepare a further detailed budget with supporting data including, where possible, data from potential Trade Contractors for review by the Architect/Engineer and approval by the Owner. During the preparation of the Construction Documents, the Construction Manager shall update and refine this budget at appropriate intervals agreed upon by the Owner and Construction Manager.

.4 When the Owner and Construction Manager agree the Construction Documents are sufficiently complete, the Construction Manager shall prepare and submit to the Owner in writing a Construction Budget including data from Trade Contractors. The Construction Budget shall include the sum of the estimated cost of the Work, the clarifications and assumptions upon which it is based, allowances, reasonable contingencies and the Construction Manager's Compensation.

.5 As the Construction Documents may not be completed at the time the Construction Budget is prepared, the Construction Manager shall provide in the Construction Budget for further development of the Construction Documents consistent with the then current Construction Documents.

.6 The Construction Manager shall meet with the Owner and Architect/Engineer to review the Construction Budget. In the event that the Owner or Architect/Engineer discover any inconsistencies, inaccuracies or omissions in the in-

information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Construction Budget. The Owner shall then give prompt written approval of the Construction Budget.

.7 The Owner shall cause the Architect/Engineer to revise the Construction Documents to the extent necessary to reflect the clarifications, assumptions, and allowances on which the Construction Budget is based. Revised Construction Documents shall be furnished to the Construction Manager in accordance with the current Project Schedule, unless otherwise agreed by the Owner, Construction Manager and Architect/Engineer. The Construction Manager shall promptly notify the Owner and Architect/Engineer if the revised Construction Documents are inconsistent with the Construction Budget's clarifications, assumptions, and allowances.

.8 If any budget submitted to the Owner exceeds previously approved budgets, the Construction Manager shall notify and make recommendations to the Owner.

3.1.5 CONSTRUCTION DOCUMENT REVIEW The Construction Manager shall review the Construction Documents in an effort to identify potential constructibility problems that could impact the Trade Contractors' ability to perform the Work in an expeditious and economical manner. The Construction Manager shall issue a report to the Architect/Engineer and Owner for their review and action as appropriate. In addition, the Construction Manager shall promptly report to the Owner and the Architect/Engineer any errors or omissions which it discovers in the Construction Documents.

3.1.6 TEMPORARY FACILITIES The Construction Manager shall make recommendations regarding temporary construction facilities, equipment, materials and services for common use by Trade Contractors.

3.1.7 LONG-LEAD ITEMS The Construction Manager shall recommend to the Owner and the Architect/Engineer a schedule for procurement of long-lead time items which will constitute part of the Work as required to meet the Project Schedule. The Construction Manager shall help expedite the delivery of long-lead time items.

3.1.8 DIVISION OF THE WORK The Construction Manager shall make recommendations regarding the division of the Work into Trade Contractor bid packages.

3.1.9 SOLICITATION OF TRADE CONTRACTORS AND SUPPLIERS The Construction Manager shall make recommendations regarding the method to be used for selection of Trade Contractors and award of Trade Contractor Agreements. The Construction Manager shall seek to develop Trade Contractor interest in the Project and shall furnish to the Owner and Architect/Engineer a list of possible Trade Contractors from whom

proposals may be requested for each principal portion of the Work. The Owner shall promptly reply in writing to the Construction Manager if the Owner or Architect/Engineer know of any objection to Trade Contractor. The Owner may designate specific persons or entities from whom the Construction Manager shall solicit bids.

3.1.10 AWARD OF TRADE CONTRACTOR AGREEMENTS The Construction Manager shall solicit bids from Trade Contractors, analyze the bids, and deliver the bids to the Owner. The Owner shall then determine, with the advice of the Construction Manager, which bids to accept. The Owner shall not contract with any Trade Contractor to whom the Construction Manager has a reasonable objection.

3.1.11 EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION The Construction Manager shall consult with the Owner regarding equal employment opportunity and affirmative action programs.

3.1.12 CONSULTANTS The Construction Manager shall assist the Owner in selecting, retaining and coordinating the professional services of a surveyor, testing laboratories and special consultants as needed.

3.1.13 PERMITS The Construction Manager shall assist the Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by the various Trade Contractors.

3.2 CONSTRUCTION PHASE SERVICES

3.2.1 GENERAL

.1 The construction phase shall commence on the earlier of:

- a. the Owner's first award and/or authorization for Construction Manager to award a Trade Contract or Agreement, or
- b. the Owner's first authorization for the Construction Manager to undertake General Conditions items.

.2 If the Owner and Construction Manager agree, after consultation with the Architect/Engineer, the Construction Phase may commence before the Preconstruction Phase is completed, in which case both phases will proceed concurrently.

3.2.2 ADMINISTRATION

.1 The Construction Manager shall assist the Owner in preparing, negotiating and entering into Trade Contractor Agreements, and advise the Owner on the acceptability of subcontractors and suppliers proposed by Trade Contractor.

lors. All Trade Contractor Agreements shall be between the Owner and the Trade Contractors. However, if the Owner so directs, the Construction Manager shall execute the Trade Contractor Agreements on behalf of and as the agent for the Owner. The terms and conditions of the Trade Contractor Agreements shall be acceptable to the Construction Manager.

.2 The Construction Manager shall establish an on-site organization and lines of authority to administer the Project. The Construction Manager shall schedule and conduct meetings at which the Owner, Construction Manager, Architect/Engineer and appropriate Trade Contractors can discuss the status of the Work. The Construction Manager shall prepare and promptly distribute meeting minutes.

.3 The Construction Manager shall provide monthly written reports to the Owner and Architect/Engineer on the progress of the entire Work. The Construction Manager shall maintain a daily log containing a record of weather, Trade Contractors working on the site, number of workers, Work accomplished, problems encountered and other similar relevant data as the Owner may reasonably require. The log shall be available to the Owner and Architect/Engineer.

.4 The Construction Manager shall assist the Owner and the Architect/Engineer in the review, evaluation and documentation of claims by Trade Contractors.

.5 The Construction Manager shall maintain on a current basis at the Project site records of all Trade Contractor Agreements, Construction Documents, samples, purchases, materials, equipment, maintenance and operating manuals and instructions, and other construction related documents, including all revisions. The Construction Manager shall obtain data from Trade Contractors and maintain a current set of record drawings, specifications and operating manuals and, at the completion of the Project, deliver all such records to the Owner.

.6 The Construction Manager shall monitor and coordinate the Trade Contractors, and if necessary, shall have the right to change the time, order and priority in which the various portions of the Work are to be performed.

3.2.3 PROJECT SCHEDULE Utilizing the construction schedules provided by the Trade Contractors, the Construction Manager shall update the Project Schedule incorporating the activities of the Trade Contractors on the Project. If the construction schedules provided by the Trade Contractors indicate that milestone dates contained in prior Project Schedules will not be met, the Construction Manager shall notify and make recommendations to the Owner. The Construction Manager shall (a) monitor the performance of the Trade Contractors as it relates to the Project Schedule (b) update the Project Schedule and

(c) if required recommend corrective alternatives or adjustments to the Owner and/or Trade Contractors.

3.2.4 MONITORING THE CONSTRUCTION BUDGET

.1 The Construction Manager shall develop and implement a detailed system of cost monitoring that will provide the Owner with timely information as to the anticipated total cost of the Project, including changes in the Work or Services. The cost monitoring system shall track the Construction Budget as it is updated from time to time, and compare it with the actual cost for Work in progress and estimates for uncompleted Work including proposed changes. This information shall be reported to the Owner in writing at mutually agreeable intervals. The Construction Manager shall advise the Owner whenever projected costs exceed budgeted amounts and recommend corrective alternatives or adjustments.

.2 The Construction Manager shall maintain cost accounting records on Work performed under unit costs, actual costs for labor and materials, or other similar methods; afford the Owner access to these records; and preserve them for a period of three (3) years after final payment.

.3 The Construction Manager shall develop and implement a procedure for the review and processing of monthly applications by Trade Contractors for progress and final payments. Based on the Construction Manager's observations of the Work and review of the Trade Contractors' payment applications, the Construction Manager shall recommend amounts due the respective Trade Contractors.

.4 The recommendation for payment of a Trade Contractor's application for payment shall not be a representation that the Construction Manager has:

- a. made exhaustive or continuous on-site inspections to check the quality or quantity of the Work;
- b. reviewed construction means, methods, techniques, sequences or procedures for the Trade Contractor's Work;
- c. reviewed copies of requisitions received from subcontractors and material suppliers and other data requested by the Owner to substantiate the Trade Contractor's right to payment; or
- d. ascertained how or for what purpose the Trade Contractor has used money previously paid.

.5 The Construction Manager shall:

- a. develop and implement a procedure for the preparation, review and processing of change orders to the Trade Contractor Agreements;

EX 5-5

b. recommend to the Owner and the Architect/Engineer necessary or desirable changes to the Trade Contractor Agreements;

c. review, evaluate and make recommendations regarding Trade Contractor requests for changes; and

d. assist in preparing and negotiating Trade Contractor Agreement change orders.

3.2.5 REVIEW OF TRADE CONTRACTORS' WORK AND SAFETY PROGRAMS

.1 The Construction Manager shall determine in general whether the Work is being performed in accordance with the requirements of the respective Trade Contractor Agreements, endeavoring to guard the Owner against defects and deficiencies in the Work. As appropriate, the Construction Manager shall have authority, upon written authorization from the Owner, to require additional inspection or testing of the Work in accordance with the provisions of the Trade Contractor Agreements, whether or not such Work is fabricated, installed or completed. The Construction Manager, in consultation with the Owner and the Architect/Engineer, may reject Work which does not conform to the requirements of the Trade Contractor Agreements.

.2 The Construction Manager shall refer all questions for interpretation of the documents prepared by the Architect/Engineer to the Architect/Engineer.

.3 The Construction Manager shall review the safety programs developed by each of the Trade Contractors for purposes of coordinating the safety programs with those of the other Trade Contractors. The Construction Manager's responsibilities for coordination of safety programs shall not extend to direct control over or charge of, the acts or omissions of the Trade Contractors, or the subcontractors, agents or employees of the Trade Contractors or any other persons performing portions of the Work and not directly employed by the Construction Manager.

.4 The Construction Manager shall not have control over or charge of acts or omissions of the Trade Contractors or their subcontractors, agents or employees, or any other persons performing portions of the Work not directly employed by the Construction Manager. The Construction Manager shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work of the Trade Contractors, since these are solely the Trade Contractors' responsibilities. The Construction Manager shall not be responsible for a Trade Contractor's failure to carry out the Work in accordance with the respective Contract Documents.

3.2.6 SHOP DRAWINGS AND SAMPLES The Construction Manager, in collaboration with the Architect/Engineer, shall establish and implement procedures for expediting the processing and approval of shop drawings and samples.

3.2.7 PROJECT CLOSE-OUT

.1 The Construction Manager shall advise the Owner as to the date of Substantial Completion of the Work or designated portions thereof, and assist the Architect/Engineer in preparing a list of incomplete or unsatisfactory items and a proposed schedule for their completion.

.2 The Construction Manager, with the Owner's maintenance personnel, shall direct the checkout of utilities, operations systems and equipment for readiness and assist in their initial start-up and testing by the Trade Contractors.

.3 The Construction Manager shall advise the Owner as to the final completion of the Work and provide written notice to the Owner and Architect/Engineer that the Work is ready for final inspection.

.4 The Construction Manager shall collect and deliver to the Owner the guarantees, affidavits, releases, bonds and waivers from Trade Contractors and any keys, manuals, record drawings and maintenance stocks the Construction Manager receives from the Trade Contractors.

3.2.8 GENERAL CONDITIONS ITEMS The Construction Manager shall provide all supervision, labor, materials, construction equipment, tools and subcontract items which are necessary for the completion of the General Conditions Items defined in Subparagraph 2.2.7.

3.3 ADDITIONAL SERVICES At the request of the Owner the Construction Manager shall provide the following additional services upon written agreement between the Owner and Construction Manager, defining the extent of such additional services and the amount and manner in which the Construction Manager shall be compensated for such additional services.

.1 INVESTIGATION Services related to investigation, appraisals or valuations of existing conditions, facilities or equipment, or verifying the accuracy of existing drawings or other Owner-furnished information.

.2 OWNER FIXTURES, FURNITURE AND EQUIPMENT Services related to Owner-furnished fixtures, furniture and equipment which are not a part of the Work.

.3 TENANT IMPROVEMENTS Services for tenant or rental spaces.

.4 OWNER CONSTRUCTION Services related to construction performed by the Owner.

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.5 DAMAGE REPAIR Consultation or other services related to the repair or replacement of Work damaged by fire or other cause during construction.

.6 TRADE CONTRACTOR WORK Correcting or completing Work of Trade Contractors.

.7 TRADE CONTRACTOR DEFAULT Services made necessary by the default of a Trade Contractor.

.8 EXPERT WITNESS Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration or legal proceeding.

.9 LABOR ACCOMMODATIONS Finding housing for construction labor, and defining requirements for establishment and maintenance of base camps.

.10 TRAINING Obtaining or training operation or maintenance personnel or negotiating operation or maintenance contracts.

.11 INSPECTION Inspections of and services related to the Project after completion of the Services under this Agreement.

ARTICLE 4

OWNER'S RESPONSIBILITIES

4.1 INFORMATION AND SERVICES

4.1.1 FULL INFORMATION The Owner shall provide full information in a timely manner, including the Owner's Program and other Project requirements.

4.1.2 ADEQUATE OWNER FINANCING The Owner, upon written request from the Construction Manager, shall furnish evidence of adequate Project financing from time to time as the Construction Manager may request. Furnishing of such evidence shall be a condition precedent to the Construction Manager's obligation to commence or continue the Services.

4.1.3 STRUCTURAL AND ENVIRONMENTAL TESTS, SURVEYS AND REPORTS In the preconstruction phase, the Owner shall promptly furnish the following:

.1 Reports, surveys, drawings and tests concerning the conditions of the Project site which are required by law and/or reasonably requested by the Construction Manager

.2 Surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a

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

.3 The services of a geotechnical engineer when such services are required by law and/or reasonably requested by the Construction Manager. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of Hazardous Materials, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations.

.4 Structural, mechanical, chemical, air and water pollution tests, tests for Hazardous Materials, and other laboratory and environmental tests, inspections and reports which are required by law and/or reasonably requested by the Construction Manager.

.5 The services of other consultants when such services are required by law, reasonably required by the scope of the Project and/or reasonably requested by the Construction Manager.

4.2 OWNER'S REPRESENTATIVE The Owner's representative is Judge Rob Robertson / Sheriff Ron Abernathy, who is agreed to by the Construction Manager. The Owner's representative:

.1 shall be fully acquainted with the Project;

.2 shall furnish the information and services required of the Owner pursuant to Paragraph 4.1 so as not to delay the Construction Manager's Services and/or the Work; and

.3 shall have authority to bind the Owner in all matters relating to this Agreement including, without limitation, all matters requiring the Owner's approval, authorization or written notice. If the Owner changes its representative as listed above, the Owner shall notify the Construction Manager in advance in writing. The Construction Manager shall have the right to approve any successor representative.

4.3 ARCHITECT/ENGINEER The Owner shall retain or employ an Architect/Engineer to provide all required architectural, engineering and design services for the Project, including, without limitation, structural, mechanical and electrical engineering

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services. The Owner shall cause the Architect/Engineer to provide those services reasonably requested by the Construction Manager. Such services shall be provided promptly and in accordance with time schedules agreed upon by the Owner, Construction Manager and Architect/Engineer. Upon request of the Construction Manager, the Owner shall furnish to the Construction Manager a copy of the Owner's Agreement with the Architect/Engineer, from which compensation provisions may be deleted. The Agreement between the Owner and the Architect/Engineer shall not be modified without written notification to and consent of the Construction Manager.

4.4 LEGAL REQUIREMENTS The Owner shall determine and advise the Construction Manager and Architect/Engineer of any special legal requirements relating specifically to the Project which differ from those generally applicable to construction in the jurisdiction of the Project. The Owner shall furnish such legal services as are necessary to provide the information and services required under Paragraph 4.1.

4.5 ADDITIONAL REQUIREMENTS

4.5.1 APPROVALS The Owner shall secure and pay for necessary approvals, easements, rights of way, assessments and charges required for the construction, use or occupancy of the Project.

4.5.2 ANCILLARY SERVICES The Owner shall furnish necessary accounting, auditing and insurance services.

4.5.3 INSURANCE The Owner shall provide insurance for the Project as provided in Paragraphs 10.3 and 10.4, and shall bear the cost of any bonds required.

4.5.4 CONSTRUCTION DOCUMENTS The Construction Manager shall be furnished without charge all copies of drawings, specifications and other Construction Documents reasonably necessary for the execution of the Services. If the Owner becomes aware of any fault or defect in the Project or non-conformance with the Construction Documents, prompt written notice shall be given to the Construction Manager.

4.5.5 COMMUNICATIONS It is the intent of this Agreement that all communications with the Trade Contractors go through the Construction Manager. However, if it becomes necessary for the Owner to communicate directly with a Trade Contractor, the Owner is to notify the Construction Manager of such communication in writing.

4.6 RELIANCE The services, information, surveys and reports required under this Article shall be furnished with reasonable promptness at the Owner's expense, and the Construction Manager shall be entitled to rely upon the accuracy and completeness thereof. The Owner shall obtain all permits and licenses which are necessary for the performance of the Work and the Services, except where such permits or licenses are the express responsibility of the Construction Manager.

4.5.7 COORDINATION OF OWNER WORK The Owner shall provide interface with and coordination of all work which is being performed by the Owner.

4.5.8 REVIEW AND APPROVAL The Owner shall promptly furnish all required review and approval or other appropriate action with respect to all samples, estimates, schedules, budgets, shop drawings, Trade Contractor Agreements, purchase orders, contracts, and other items submitted and/or proposed by the Construction Manager.

ARTICLE 5

TRADE CONTRACTOR AGREEMENTS

5.1 TRADE CONTRACTORS The Trade Contractors are the contractors, vendors, suppliers, manufacturers and others who shall furnish all of the Work involved in the construction of the Project, excluding General Conditions Items as defined in Subparagraph 2.2.7. The Owner shall enter into contracts with the Trade Contractors; which contracts are referred to as Trade Contractor Agreements.

5.2 TRADE CONTRACTOR AGREEMENTS The form of the Trade Contractor Agreements, including any general or supplementary conditions, shall be satisfactory to the Construction Manager. The Owner shall ensure that each Trade Contractor Agreement:

.1 requires the Trade Contractors to cause their insurance carriers to waive all rights of subrogation against the Owner, Construction Manager, Architect/Engineer, their agents, employees, consultants and assigns, for all damages in connection with the Project which are covered by required insurance except such rights as they may have to the proceeds of such insurance held by the Owner or Construction Manager as trustees;

.2 contains the indemnification obligation specified in Subparagraph 10.1.3;

.3 provides that the Construction Manager is in all cases acting solely on behalf of and as the agent for the Owner in soliciting, awarding and administering the Trade Contractor Agreements; and

.4 makes the Construction Manager a third-party beneficiary of the Trade Contractor Agreements entitled to enforce any rights thereunder for its own benefit.

5.3 TRADE CONTRACTOR AGREEMENT PARTIES Trade Contractor Agreements shall be directly between the Owner and the Trade Contractors. The Construction Manager shall not have any liability for or responsibility under any Trade Con-

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tractor Agreement executed by the Owner, or by the Construction Manager acting as the Owner's agent; and the Construction Manager's activities as set forth in this Agreement shall imply no such liability or responsibility. Trade Contractors and their subcontractors and suppliers are not intended to be and shall not be third-party beneficiaries of this Agreement.

ARTICLE 6

WARRANTY

6.1 CONSTRUCTION MANAGER'S SERVICES The Construction Manager warrants that it will perform its Services in accordance with the standard of care normally practiced by construction management firms in performing services of a similar nature at the time and place the Services are performed. At the written request of Owner at any time within the one (1) year period after the earlier of (a) Substantial Completion of the Project or designated portion thereof, (b) the date that Owner actually occupies or takes over the Project or designated portion thereof; or (c) termination of the Services pursuant to Article 11, Construction Manager shall perform all corrective services within the original scope of Services as are necessary to make its Services conform to the foregoing warranty. If the performance of such corrective services is impractical, Construction Manager shall pay to the Owner the reasonable value of such corrective services.

6.2 EXCLUSIVITY The obligations contained in this Article 6 are Construction Manager's sole warranty obligations and the Owner's exclusive remedy with respect to the quality of the Services. Construction Manager makes no warranties relating to schedules or completion dates, budgets, the cost of the Work or the Project, the Work performed by the Trade Contractors, or any other warranties, express or implied, which are not expressly set forth herein. Construction Manager shall have no liability for any errors or omissions in the Construction Documents or any defects in the Services attributable to Construction Manager's use of and/or good faith reliance upon the Construction Documents or any other information furnished by or on behalf of Owner or Architect/Engineer. This Article 6 governs, modifies and supersedes any other terms in this Agreement which address warranties or the quality of the Services.

ARTICLE 7

CONSTRUCTION MANAGER'S COMPENSATION

7.1 COMPENSATION The compensation to be paid to the Construction Manager shall include the following: an initial pay-

ment as set forth in Paragraph 7.2; compensation for preconstruction phase Services as set forth in Paragraph 7.3; and compensation for construction phase Services, which includes the Construction Manager's Fee and Reimbursable Costs, as provided in Paragraph 7.4. The Construction Manager's Compensation shall be subject to equitable adjustment as set forth in Paragraph 7.5.

7.2 INITIAL PAYMENT Owner shall pay Construction Manager an initial non-refundable payment of N/A ♦
N/A Dollars (\$) upon the ♦
execution of this Agreement. This initial payment, if any, is the minimum payment to Construction Manager under this Agreement. The initial payment shall be credited against the Fee at the conclusion of the Services.

7.3 COMPENSATION FOR PRECONSTRUCTION PHASE SERVICES For Services performed during the preconstruction phase, Owner shall pay Construction Manager as follows: (State basis of compensation for preconstruction phase Services, whether on the basis of lump sum, Reimbursable Costs, a combination of the two, or other basis.) ♦

1.5% (one and a half percent) of the total cost of construction. Reimbursable costs shall be included in the total cost of construction and shall be part of the construction cost

Unless otherwise provided, the compensation for preconstruction phase Services shall be paid monthly, in equal proportions, over the scheduled preconstruction phase. Any remaining balance shall be paid upon completion of the preconstruction phase.

7.4 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

7.4.1 FEE For Services performed during the construction phase, Owner shall pay Construction Manager a Fee of: (State amount and/or basis of Fee.) ♦

4% (four percent) of the total cost of construction

Reimbursable Costs shall be included in the total cost of construction and shall be part of the construction cost

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Unless otherwise provided, the Fee shall be paid monthly, in amounts which are proportionate to the ratio the monthly payment for the cost of the Work bears to the total estimated cost of the Work.

7.4.2 COMPOSITION OF THE FEE The Construction Manager's Fee includes the following:

- .1 salaries and other mandatory or customary compensation of the Construction Manager's employees at its principal and branch offices, except employees listed in Subparagraph B.1.2;
- .2 general and administrative expenses of the Construction Manager's principal and branch offices other than the field office, except as may be expressly included in Article 8;
- .3 the Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work; and
- .4 Construction Manager's profit.

7.4.3 REIMBURSABLE COSTS The Owner shall pay Construction Manager the Reimbursable Costs set forth in Article 8. Such Reimbursable costs are in addition to the Fee.

7.5 ADJUSTMENTS The Construction Manager's compensation including any limitation on the amount thereof shall be equitably adjusted in the event of any changes in the Services, the Project, the Project Schedule, the Trade Contractor Agreements or the Work, or any other event or circumstance beyond the reasonable control of the Construction Manager; including but not limited to force majeure, or Owner suspension, delay or interruption; altering the cost of or time required for performance of the Construction Manager's Services.

(State any special condition for the adjustment of compensation for preconstruction phase services or the Fee) ◆

ARTICLE 8

REIMBURSABLE COSTS

8.1 REIMBURSABLE COST ITEMS Reimbursable Costs include the following items.

8.1.1 CONSTRUCTION WORKERS Actual wages, salaries and other compensation, or amounts calculated under a salary or wage schedule agreed upon by the Owner and Construction Manager for construction workers employed by the Construction Manager to perform General Condition Items or other Services on or off the Project site.

8.1.2 STAFF Actual wages, salaries and other compensation, or amounts calculated under a salary or wage schedule agreed upon by the Owner and the Construction Manager, for the employees of the Construction Manager when (a) employed at the Project site, in whatever capacity, (b) engaged on the road expediting the production or transportation of material and equipment and otherwise performing Services, and (c) performing the functions listed below from the principal or branch office: ◆

See Attachments

"A" - Reimbursable Cost to Construction Manager

"B" - Reimbursable Equipment Rates

8.1.3 PAYROLL TAXES Cost of payroll taxes and insurance, and all employee benefits and contributions including, without limitation, unemployment insurance, workers' compensation insurance, FICA, health insurance, sick leave, holidays, vacation, pensions, retirement contributions, etc., insofar as the amount thereof is based on the wages, salary or other compensation paid to the employees of the Construction Manager referred to in Subparagraphs 8.1.1 and 8.1.2.

.1 DIRECT PERSONNEL EXPENSE If any portion of Construction Manager's compensation is based on a multiple of direct Personnel Expense, Direct Personnel Expense is defined as the actual wages, salaries and other compensation of the relevant personnel, together with the appropriate portion of the cost of payroll taxes and insurance, and all employee benefits and contribution including, without limitation, unemployment insurance, workers' compensation insurance, FICA, health insurance, sick leave, holi-

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days, vacation, pensions, retirement contributions, etc., insofar as the amount thereof is based on the wages, salaries or other compensation paid to said employees.

8.1.4 TEMPORARY WORKERS If work or labor which would otherwise be reimbursable under this Agreement is provided by temporary agency personnel, Construction Manager shall be reimbursed for the actual invoiced cost to Construction Manager plus an amount equal to 5.5% (percent) ♦ percent thereof.

8.1.5 TRAVEL The proportion of reasonable transportation, traveling, moving, food, lodging, and per diem expenses of the Construction Manager or of his officers or employees incurred in performance of the Services.

8.1.6 MATERIALS AND SUPPLIES Cost and/or fair rental value of all materials, supplies, tools, temporary facilities and equipment used in performing the Services including costs of transportation, storage, loading, unloading, operation, use, repair and maintenance thereof.

8.1.7 INSURANCE Cost of all insurance and bonds which the Construction Manager is required to procure by this Agreement or is deemed necessary by the Construction Manager at cost or at agreed upon rates.

8.1.8 TAXES All sales, use, gross receipts and other taxes and duties related to the Project, and/or the Services for which the Construction Manager is liable.

8.1.9 PERMITS AND LICENSES Permit fees, licenses, tests, royalties, damages for infringement of patents and costs of defending claims therefor.

8.1.10 DEPOSITS Deposits lost for causes other than the Construction Manager's negligence.

8.1.11 UNINSURED LOSSES Losses, expenses or damages to the extent not compensated by insurance or otherwise, including settlements made with the approval of the Owner which consent shall not be unreasonably withheld.

8.1.12 MISCELLANEOUS Minor expenses such as telegrams, long-distance telephone calls, telephone service at the Project site, express mail, reprographics, document retention costs, computers and software, and petty cash items in connection with the Project.

8.1.13 CLEAN-UP Cost of clean-up and removal of waste.

8.1.14 EMERGENCY Cost incurred due to an emergency affecting the safety of persons or property

8.1.15 DATA PROCESSING Cost of data processing services required in the performance of the Services.

8.1.16 ANCILLARY SERVICES The cost of legal, accounting and other such services obtained in connection with the performance of the Services.

8.1.17 DISPUTE RESOLUTION Legal, mediation and arbitration costs, other than those arising from disputes between the Owner and Construction Manager.

8.1.18 GENERAL CONDITION ITEMS All costs and expenses related to General Condition Items.

8.1.19 OTHER COSTS All costs and expenses which are made reimbursable elsewhere in this Agreement.

8.1.20 TRADE CONTRACTORS Any amounts paid or payable by Construction Manager to the Trade Contractors.

8.1.21 DEFECTIVE WORK Costs of repairing, replacing, correcting or completing defective or incomplete Work.

8.1.22 OTHER COSTS All other costs directly incurred in the performance of the Services and not included in the Construction Manager's Fee as set forth in Subparagraph 7.4.2.

ARTICLE 9

PAYMENTS TO THE CONSTRUCTION MANAGER

9.1 MONTHLY STATEMENTS The Construction Manager shall submit a monthly statement to the Owner, sworn to if required, listing all compensation then due to the Construction Manager, including a breakdown of the Construction Manager's compensation. Payment by the Owner to the Construction Manager of the statement amount shall be made within ten (10) days after it is submitted.

9.2 FINAL PAYMENT Final payment including any unpaid balance of the Construction Manager's compensation shall be due and payable when the Project is delivered to the Owner, ready for beneficial occupancy, or when the Owner occupies the Project, or when the Services are complete, whichever event first occurs.

9.3 SUSPENSION If the Owner should fail to pay the Construction Manager within five (5) days after the time the payment of any amount becomes due, then the Construction Manager may, upon seven (7) additional days' written notice to the Owner, stop performing Services until payment of the amount owing has been received.

9.4 LATE PAYMENTS Payments due but unpaid shall bear interest at the current "prime rate" plus two (2) points of

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ARTICLE 10

INDEMNITY, INSURANCE AND WAIVER OF SUBROGATION

10.1 INDEMNITY

10.1.1 CONSTRUCTION MANAGER'S INDEMNITY The Construction Manager shall indemnify and hold the Owner and its employees harmless from all claims for bodily injury and damage to property (excluding damage to the Project itself, and other property for which the Owner assumes the risk of loss) that may arise from the performance of the Services, to the extent caused by the negligent acts or omissions of the Construction Manager is liable. The Construction Manager shall not be required to indemnify or hold harmless the Owner for any acts, omissions or negligence of the Owner.

10.1.2 OWNER'S INDEMNITY The Owner shall indemnify and hold the Construction Manager and its employees harmless from all claims for bodily injury and damage to property that may arise in connection with the Project to the extent caused by the negligent acts or omissions of the Owner or anyone for whose acts Owner is liable.

10.1.3 TRADE CONTRACTOR'S INDEMNITY The Owners shall cause all Trade Contractors to agree to indemnify and hold harmless the Owner and the Construction Manager from all claims for bodily injury and damage to property (excluding damage to the Project itself and other property for which the Owner assumes the risk of loss) that may arise from that Trade Contractor's operations, to the extent that such claims result from the negligent acts or omissions of the Trade Contractor or anyone for whose acts the Trade Contractor is liable. Such provisions shall be in a form reasonably satisfactory to the Owner and the Construction Manager.

10.2 CONSTRUCTION MANAGER'S LIABILITY INSURANCE

10.2.1 WORKER'S COMPENSATION The Construction Manager shall obtain and maintain Workers' Compensation insurance and Employers' Liability insurance as required by law. If limits in excess of those required by law are to be provided, coverages and limits for such insurance shall be as follows:

10.2.2 COMMERCIAL GENERAL LIABILITY The Construction Manager shall obtain and maintain Commercial or Comprehensive General Liability insurance written on an occurrence basis, including contractual liability coverage, broad form property damage including coverage for explosion, collapse and underground hazards, personal injury and advertising insurance coverage, and products and completed operations coverage, with not less than the following limits of liability:

- .1 a. Each Occurrence Limit \$ 1,000,000.00 +
 - b. General Aggregate Limit \$ 2,000,000.00 +
 - c. Products/Completed Operations Aggregate \$ 2,000,000.00 +
 - d. Personal and Advertising Injury Limit \$ 1,000,000.00 +
 - e. Medical Pay \$ 5,000.00 +
- or
- .2 a. Bodily Injury \$ _____ +
Each Occurrence
 - \$ _____ +
Aggregate
 - b. Property Damage \$ _____ +
Each Occurrence
 - \$ _____ +
Aggregate

10.2.3 The Construction Manager shall obtain and maintain Business Automobile Liability Insurance covering owned, non-owned and hired automobiles, with not less than the following limits of liability:

- .1 Combined Single Limit Bodily Injury and Property Damage \$ 1,000,000.00 +
Each Occurrence
- or
- .2 a. Bodily Injury \$ 1,000,000.00 +
Each Person
 - \$ 3,000,000.00 +
Each Occurrence
 - b. Property Damage \$ 1,000,000.00 +
Each Occurrence

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10.2.4 OTHER COVERAGE
(List other coverage.)

+

ance of the Construction Manager, the Trade Contractors and all subcontractors and suppliers.

10.2.5 EXCESS UMBRELLA Commercial or Comprehensive General Liability insurance may be arranged under a single policy for the full limits required or by a combination of primary, excess and/or umbrella liability policies.

10.2.6 CANCELLATION The foregoing policies shall contain a provision that coverage will not be cancelled or not renewed until at least thirty (30) days' prior written notice has been given to the Owner. Certificates of Insurance showing such coverage to be in force shall be filed with the Owner prior to commencement of the Services.

10.2.7 PRODUCTS AND COMPLETED OPERATIONS Products and Completed Operations insurance shall be maintained for a minimum period of at least n/a year(s) + after completion of the Services.

10.3 OWNER'S LIABILITY INSURANCE

10.3.1 OWNER'S LIABILITY The Owner shall obtain and maintain its own liability insurance for protection against claims arising out of the performance of this Agreement, including without limitation, loss of use and claims, losses and expenses arising out of the Architect/Engineer's errors and omissions.

10.4 INSURANCE TO PROTECT PROJECT

10.4.1 BUILDER'S "ALL-RISK" The Owner shall obtain and maintain property insurance in a form reasonably acceptable to the Construction Manager upon the entire Project, including all existing structures in which any Work or Services are to be performed, as well as all Project structures which are fully or partially owned or occupied by Owner or its affiliates, for the full cost of replacement at the time of any loss. This insurance shall include as insureds the Owner, Architect/Engineer, Construction Manager, Trade Contractors and all subcontractors and suppliers. This insurance shall insure against loss from the perils of fire and extended coverage, and shall include "all risk" coverage including at a minimum coverage for theft, vandalism, malicious mischief, inland transit, collapse, falsework temporary buildings, debris removal, flood, earthquake, wind testing, and damage resulting from defective design, workmanship or material. The Owner shall increase limits of coverage if necessary, to reflect estimated replacement cost. The Owner shall be responsible for all premiums and any co-insurance penalties, exclusions, sublimits or deductibles. Such insurance shall be primary and noncontributing in respect to any insur-

10.4.1 OWNER OCCUPANCY If the Owner occupies or uses a portion of the Project prior to its Substantial Completion, such occupancy or use shall not commence prior to a time mutually agreed upon by the Owner and the Construction Manager and to which the insurance company or companies providing the property insurance have consented by endorsing the policy or policies. This insurance shall not be cancelled or lapsed on account of partial occupancy. Consent of the Construction Manager to such early occupancy or use shall not be unreasonably withheld.

10.4.2 BOILER AND MACHINERY The Owner shall obtain and maintain boiler and machinery insurance for the entire Project and all existing structures in which any Work or Services are to be performed. The interests of the Owner, Architect/Engineer, Construction Manager, Trade Contractors and all subcontractors and suppliers shall be protected under this coverage.

10.4.2 LOSS OF USE At its option the Owner shall purchase and maintain insurance to protect the Owner, Architect/Engineer, Construction Manager, Trade Contractors and all subcontractors and suppliers against loss of use of Owner's property due to those perils insured against pursuant to Paragraph 10.4. Such policy will provide coverage for expediting expenses of materials, continuing overhead of the Owner and the Construction Manager, Architect/Engineer, Trade Contractors and all subcontractors and suppliers, necessary labor expenses including overtime, loss of income by the Owner and other determined exposures. Exposures of the Owner, Construction Manager, Architect/Engineer, Trade Contractors and all subcontractors and suppliers, shall be determined by mutual agreement with separate limits of coverage fixed for each item.

10.4.3 POLICIES Upon the Construction Manager's request, the Owner shall provide the Construction Manager with a copy of all policies including all endorsements thereto. The Construction Manager shall be given thirty (30) days' prior written notice of cancellation, non-renewal, or any endorsements restricting or reducing coverage. The Owner shall give written notice to the Construction Manager before commencement of the Work if the Owner will not be obtaining property insurance as required by this Paragraph 10.4. In that case, the Construction Manager may obtain insurance in order to protect its interest in the Project and the Work as well as the interests of the Architect/Engineer, Trade Contractors and all subcontractors and suppliers. The cost of this insurance shall be a reimbursable cost pursuant to Article 8, and the Construction Budget, and any agreed-upon maximum cost(s) shall be equitably adjusted. If the Construction Manager is damaged by failure of the Owner to purchase or maintain property insurance or to so notify the Construction Manager, the Owner shall reimburse Construction Manager for all such damages incurred by the Construction Manager.

10.5 PROPERTY INSURANCE LOSS ADJUSTMENT

10.5.1 LOSS ADJUSTMENT Any insured loss shall be adjusted with the Owner and the Construction Manager and made payable to the Owner as trustee for the insureds, as their interests may appear, subject to any applicable mortgagee clause.

10.5.2 DISTRIBUTION OF PROCEEDS Upon the occurrence of an insured loss, monies received will be deposited in a separate account and the trustee shall make distribution in accordance with the agreement of the parties in interest.

10.6 WAIVER OF CLAIMS AND RIGHTS OF SUBROGATION

10.6.1 PROPERTY DAMAGE The Owner and Construction Manager waive all claims and other rights they may have against each other for loss of and/or damage to (a) the Project, (b) all materials, machinery, equipment and other items used in accomplishing the Work and/or Services and/or to be incorporated into the Project, while the same are in transit, at the Project site, during erection and otherwise, and (c) all property owned by or in the custody of Owner and its affiliates, however such loss or damage shall occur, except such rights as they may have to the proceeds of such insurance held by the Owner as trustee. If Owner is not the sole owner of the Project site and all property at and adjacent thereto, Owner shall obtain an undertaking from the other owners thereof sufficient to provide to Construction Manager the same protection from liability for loss or damage as would be afforded to Construction Manager under this Agreement if Owner were the sole owner.

10.6.2 WAIVER OF SUBROGATION The Owner shall have its insurers waive all rights of subrogation they may have against the Construction Manager, Architect/Engineer, Trade Contractors, and their subcontractors and suppliers on all policies carried by the Owner on the Project and adjacent properties.

10.6.3 ENDORSEMENT If the policies of insurance referred to in this Paragraph require an endorsement to provide for continued coverage where there is a waiver of subrogation, the Owner will cause them to be so endorsed.

ARTICLE 11

TERMINATION OF THE AGREEMENT AND OWNER'S RIGHT TO PERFORM CONSTRUCTION MANAGER'S OBLIGATIONS

11.1 TERMINATION BY THE CONSTRUCTION MANAGER

11.1.1 TERMINATION Upon seven (7) days' written notice to the Owner, the Construction Manager may, in addition to any other rights or remedies it has, terminate this Agreement for any of the following reasons:

.1 if the Work has been stopped for a thirty (30) day period

a. under court order or order of other governmental authorities having jurisdiction;

b. as a result of the declaration of a national emergency or other governmental act during which, through no fault of the Construction Manager, materials are not available; or

c. because of the Owner's failure to pay the Construction Manager in accordance with this Agreement;

.2 if the Work is suspended by the Owner for sixty (60) days;

.3 if the Owner materially delays the Construction Manager in the performance of the Work;

.4 if the Owner otherwise materially breaches this Agreement; or

.5 if the Owner fails to furnish reasonable evidence that sufficient funds are available and committed for the entire cost of the Project in accordance with Subparagraph 4.1.2 of the Agreement.

11.1.2 PAYMENT Upon termination by the Construction Manager in accordance with Subparagraph 11.1.1, the Construction Manager shall be entitled to recover from the Owner payment for all Services performed and for any proven loss, cost or expense in connection with the Services, plus all demobilization costs. In addition, the Construction Manager shall be paid an amount calculated as set forth either in Subparagraph 11.3.1 or 11.3.2, depending on when the termination occurs, and Subparagraph 11.3.3.

11.2 OWNER'S RIGHT TO PERFORM CONSTRUCTION MANAGER'S OBLIGATIONS AND TERMINATION BY THE OWNER FOR CAUSE

11.2.1 OWNER'S PERFORMANCE If the Construction Manager persistently fails to perform any of its obligations under this Agreement, the Owner may, after seven (7) days' written notice, during which period the Construction Manager fails to either perform such obligation or to commence and continue reasonable remedial measures, undertake to perform such obligations. The Construction Manager's compensation shall be reduced by the additional cost to the Owner, if any, of performing such obligation.

11.2.2 TERMINATION Upon seven (7) days' written notice to the Construction Manager, the Owner may terminate this Agreement for any of the following reasons: if, during such seven (7) day period the Construction Manager fails to either cure or commence and continue reasonable remedial measures:

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.1 if the Construction Manager persistently utilizes improper materials and/or inadequately skilled workers;

.2 if the Construction Manager persistently fails to abide by the orders, regulations, rules, ordinances or laws of governmental authorities having jurisdiction; or

.3 if the Construction Manager otherwise materially breaches this Agreement.

Upon such termination, the Owner may take possession of the site and complete the Services utilizing any reasonable means. In this event, the Owner shall pay the Construction Manager for all Services properly performed through the date of termination and neither party shall have any further liability to the other.

11.2.3 BANKRUPTCY If the Construction Manager files a petition under the Bankruptcy Code, this Agreement shall terminate if the Construction Manager or the Construction Manager's trustee rejects the Agreement or, if there has been a default, the Construction Manager is unable to give adequate assurance that the Construction Manager will perform as required by this Agreement or otherwise is unable to comply with the requirements for assuming this Agreement under the applicable provisions of the Bankruptcy Code.

11.2.4 ACCOUNTING In the event the Owner exercises its rights under Subparagraph 11.2.1 or 11.2.2, upon the request of the Construction Manager the Owner shall provide a detailed accounting of the cost incurred by the Owner.

11.3 TERMINATION BY OWNER WITHOUT CAUSE If the Owner terminates this Agreement other than as set forth in Paragraph 11.2, the Owner shall pay the Construction Manager for all Services performed and for any proven loss, cost or expense in connection with the Services, plus all demobilization costs. In addition, the Construction Manager shall be paid an amount calculated as set forth below:

.1 if the Owner terminates this Agreement prior to commencement of the construction phase, the Construction Manager shall be paid the balance of the Construction Manager's preconstruction phase compensation as set forth in Paragraphs 7.2 and 7.3;

.2 if the Owner terminates this Agreement after commencement of the construction phase, the Construction Manager shall be paid the balance of the Construction Manager's preconstruction phase compensation as set forth in Paragraphs 7.2 and 7.3, and 100% of the Construction Manager's Fee as set forth in Subparagraph 7.4.1; and

.3 the Owner shall also pay to the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment, materials or other

property retained. The Owner shall assume and become liable for obligations, commitments and unsettled claims that the Construction Manager has previously undertaken or incurred in good faith in connection with the Services or as a result of the termination of the Agreement. As a condition of receiving the payments provided under this Article 11, the Construction Manager shall cooperate with the Owner by taking all steps necessary to accomplish the legal assignment of the Construction Manager's rights and benefits to the Owner, including the execution and delivery of reasonably required papers.

11.4 SUSPENSION BY THE OWNER FOR CONVENIENCE

11.4.1 SUSPENSION The Owner may order the Construction Manager in writing to suspend, delay or interrupt all or any part of the Services without cause for such period of time as the Owner may determine to be appropriate for its convenience.

11.4.2 ADJUSTMENT In the event of any such suspension, delay or interruption, the Construction Manager's Compensation shall be equitably adjusted as provided in Paragraph 7.5. No adjustment shall be made if the Construction Manager is or otherwise would have been responsible for the suspension, delay or interruption of the Services, or if another provision of this Agreement is applied to render an equitable adjustment.

ARTICLE 12

DISPUTE RESOLUTION

12.1 INITIAL DISPUTE RESOLUTION If a dispute arises out of or relates to this Agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussions. If the dispute cannot be settled through direct discussions, the parties shall endeavor to settle the dispute by mediation under the Construction Industry Mediation Rules of the American Arbitration Association before recourse to arbitration. Issues to be mediated are subject to the exceptions in Paragraph 12.2 for arbitration. Once one party files a request for mediation with the other contracting party and with the American Arbitration Association, the parties agree to conclude such mediation within sixty (60) days of filing of the request.

12.2 AGREEMENT TO ARBITRATE Any controversy or claim arising out of or relating to this Agreement or its breach which is not resolved by mediation, except for claims which have been waived by the making or acceptance of final payment, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect unless the parties mutually agree otherwise. Notwithstanding Paragraph 13.5, this agreement to arbitrate shall be governed by the Federal Arbitration Act.

12.3 NOTICE OF DEMAND A written demand for arbitration shall be filed with the American Arbitration Association and the other party to this Agreement within a reasonable time after the dispute or claim has arisen, but in no event after the applicable statute of limitations for a legal or equitable proceeding would have run. The location of the arbitration proceedings shall be at the office of the American Arbitration Association nearest the Project site, unless the parties agree otherwise.

12.4 AWARD The arbitration award shall be final. Judgment upon the award may be confirmed in any court having jurisdiction.

12.5 WORK CONTINUANCE AND PAYMENT Unless otherwise agreed in writing, the Construction Manager shall continue the Services and maintain the approved schedules during any arbitration proceedings. If the Construction Manager continues to perform, the Owner shall continue to make payments in accordance with this Agreement.

12.6 MULTIPARTY PROCEEDING The parties agree that all parties necessary to resolve a claim shall be parties to the same arbitration proceeding. Appropriate provisions shall be included in all other contracts relating to the Project to provide for the consolidation of arbitrations.

12.7 COST OF DISPUTE RESOLUTION The prevailing party in any dispute arising out of or relating to this Agreement or its breach that is resolved by arbitration or litigation shall be entitled to recover from the other party costs and expenses incurred by the prevailing party in connection with such arbitration or litigation including, without limitation, reasonable attorneys' fees.

ARTICLE 13

MISCELLANEOUS PROVISIONS

13.1 HAZARDOUS MATERIALS

13.1.1 NOTIFICATION If the Owner is aware of the presence of any Hazardous Material at the project site, it shall promptly notify the Construction Manager in writing of the presence, location and composition of the Hazardous Material.

13.1.2 DISCOVERY If any known or suspected Hazardous Material is discovered at the Project site, the Construction Manager shall be entitled to immediately stop performance of Services, and the Construction Manager shall report the condition to the Owner.

13.1.3 REMEDIATION The Owner shall be solely responsible for corrective measures and/or remedial action. The Construc-

tion Manager shall not be required to resume its Services prior to receipt of certification by a mutually agreeable independent laboratory and approval by the appropriate government authority that the Hazardous Material has been removed or rendered harmless.

13.1.4 INDEMNIFICATION To the fullest extent permitted by law, the Owner shall defend, indemnify and hold harmless the Construction Manager, Architect/Engineer, Trade Contractors and their subcontractors and suppliers, and the agents, officers, directors and employees of each of them, from and against any and all claims, damages, losses, fines, penalties, costs and expenses, whether direct, indirect or consequential, including but not limited to attorneys' fees, costs and expenses incurred in connection with litigation or arbitration, arising out of or relating to the performance of the Services or the Work in any area affected by Hazardous Material. To the fullest extent permitted by law, such indemnification shall apply regardless of the fault, negligence, breach of warranty or contract, or strict liability of the indemnitee.

13.2 NOTICES

13.2.1 MANNER All notices to be given hereunder shall be in writing and shall be delivered via the United States mail, certified with return receipt requested or by other means which provide for written evidence of receipt by the party to be notified. All notices to be given to either party shall be sent or delivered to their respective addresses as set forth in Article 1.

13.2.2 CHANGES By giving the other party at least fifteen (15) days' written notice thereof, the parties hereto shall have the right to change their respective addresses or to whom notices are to be sent.

13.3 RECORDS The Construction Manager shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Agreement; the accounting and control systems shall be reasonable satisfactory to the Owner. The Owner and the Owner's accountants shall be afforded access to the Construction Manager's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memorandum and other data relating to this Project, and the Construction Manager shall preserve these for a period of three (3) years after final payment, or such longer period as may be required by law. Records of Reimbursable Costs and costs pertaining to Services performed on the basis of a multiple of Direct Personnel Expense shall be kept on the basis of generally accepted accounting principles and shall be available to the Owner or the Owner's authorized representative at mutually convenient times. Such access shall be only for the purpose of verification of such costs, and Construction Manager shall not be required to keep records of or provide access to those of its costs covered by the Fee, fixed rates, multipliers, or of costs which are expressed as a percentage of other costs.

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13.4 ASSIGNMENT Neither the Owner nor the Construction Manager shall assign their interest in this Agreement without the written consent of the other except as to the assignment of the proceeds.

13.5 GOVERNING LAW This Agreement shall be governed by the law in effect at the location of the Project, except that the conflicts of laws rules shall not be applied.

13.6 SEVERABILITY The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision. In the event a provision is determined to be partially or completely invalid, the parties agree to negotiate in good faith to reach equitable agreement which shall effect the original intent of the parties as set forth in this Agreement.

13.7 NONWAIVER The failure of either party to insist, in any one or more instances, on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right with respect to further performance.

13.8 TITLES The title given to the Articles, Paragraphs, Sub-paragraphs, Clauses, and other parts and subparts of this Agreement are for ease of reference only and shall not be relied upon, used in interpreting this Agreement, or cited for any other purpose.

13.9 ACCRUAL AND REPOSE OF ACTIONS

13.9.1 ACCRUAL OF ACTIONS Any applicable statute of limitation shall commence to run, and all causes of action arising out of or relating to this Agreement or Services shall be deemed to have accrued:

- .1 for acts or omissions occurring prior to the date of Substantial Completion of the Project, no later than the date upon which Substantial Completion of the Project occurred, or
- .2 for acts or omissions occurring after the date of Substantial Completion of the Project, no later than the date upon which final payment was made

13.9.2 REPOSE OF ACTIONS No action or arbitration or other legal proceedings shall be brought or commenced by any party hereto, nor its successors or assigns, seeking any legal or equitable remedy or arbitration award for any cause of action arising out of or relating to any act of omission in the performance of this Agreement (whether known or unknown, latent or patent), more than five (5) years, or such shorter period as may be provided by any applicable statute of repose, after Substantial Completion of the Project, except where such cause of action is for damages directly and proximately caused by the

willful fraud or misrepresentation, or other intentional tort, of a party hereto.

13.10 INTERPRETATION

13.10.1 JOINT DRAFTING The parties hereto expressly agree that this Agreement was jointly drafted, and that they both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either party, but shall be construed in a neutral manner.

13.10.2 MEANING Except as expressly stated to the contrary herein, indemnities against, releases from, assumptions of and limitations on liability expressed in this Agreement, as well as waivers of subrogation rights, shall apply even in the event of the fault, negligence or strict liability of the party indemnified or released or whose liability is limited or assumed or against whom rights of subrogation are waived, and shall extend to the officers, directors, employees, licensors, agents, affiliates, partners and related entities of such party.

13.11 REMEDIES The parties' rights, liabilities, responsibilities and remedies with respect to this Agreement, whether in contract, tort, negligence or otherwise, shall be exclusively those expressly set forth in this Agreement.

13.12 CONSEQUENTIAL DAMAGES Neither party shall be responsible or held liable for any indirect, incidental, special or consequential damages of any nature whatsoever, including, without limitation, liability for loss of use of property, loss of profits or other revenue, interest, loss of product, increased expenses or business interruption, however the same may be caused.

13.13 THIRD PARTIES The parties agree to look solely to each other with respect to the performance of this Agreement and the Services to be provided hereunder. This Agreement and each and every provision hereof is for the exclusive benefit of Owner and Construction Manager and not for the benefit of any third party, and no third party shall be entitled to rely upon or enforce the terms of this Agreement, or to be a third party beneficiary thereof, except to the extent expressly provided in this Agreement.

13.14 SURVIVAL The provisions of this Agreement, which by their nature are intended to survive the termination, cancellation, completion or expiration of the Agreement, including, but not limited to, any indemnities or any expressed limitations of or releases from liability, shall continue as valid and enforceable obligations of the parties notwithstanding any such termination, cancellation, completion or expiration.

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13.15 ENUMERATION OF DOCUMENTS
INCORPORATED INTO THIS AGREEMENT

13.15.1 DOCUMENTS This Agreement includes the following documents:

1 The Standard Form of Construction Management Agreement Between Owner and Construction Manager; and

2 (List all other documents to be included in the Agreement.)

3 Attachment A Reimbursable Costs

4 Attachment B Equipment Costs

ARTICLE 14

ADDITIONAL PROVISIONS
(State any additional provisions.)

This Agreement executed and made effective as of the day and year first written above

ATTEST: Sara Scott

OWNER Judge Rob Robertson Chairman of County Commission

BY [Signature]

PRINT NAME Ward D. Robertson, III

PRINT TITLE Chairman of County Commission

ATTEST: Shelby Hall

CONSTRUCTION MANAGER Hall-Taylor Construction

BY [Signature]

PRINT NAME Roger W Taylor

PRINT TITLE President

EKS 5



ATTACHMENT "A"
REIMBURSABLE COST

PROJECT MANAGER	\$	9,200.00	MONTHLY
SUPERINTENDENT	\$	9,780.00	MONTHLY
ASSISTANT SUPERINTENDENT	\$	8,750.00	MONTHLY
FOREMAN	\$	6,500.00	
LABOR	\$	4,000.00	MONTHLY
CLERICAL	\$	6,000.00	MONTHLY
PICKUP TRUCK	\$	300.00	WEEKLY
PORTABLE RADIOS (SOUTHERN LINC)	\$	125.00	PER MONTH
CELLULAR PHONE	\$	135.00	PER MONTH
IPAD	\$	50.00	PER MONTH
COPIER (Owner May Furnish)	\$	250.00	PER MONTH
FAX MACHINE (Owner May Furnish)	\$	50.00	PER MONTH
COMPUTER, PRINTER, SOFTWARE,	\$	375.00	PER MONTH
INTERNET CONNECTIONS (Initial setup)			COST BASIS
FEDERAL EXPRESS/UPS/POSTAGE			COST BASIS
MISCELLANEOUS (Office Supplies, Equipment, Postage, Etc..)			COST BASIS
CONSTRUCTION TRAILER (14' X 60') (12'X56') or as required)			
SET UP FEE & KNOCK DOWN FEE (SET UP/KNOCK DOWN: (COST BASIS))	14'X60' \$1,295.00, 12'X56' \$995.00		PER MONTH
TEMPORARY UTILITIES PORTABLE TOILETS			COST BASIS
BLUE PRINT COPY			COST BASIS
TEMPORARY SEWER HOLDING TANKS			COST BASIS
DUMPSTER RENTAL (Construction Debris)			COST BASIS
DUMPSTER RENTAL (Food Trash Debris) TIPPING AND HAULING			COST BASIS
			BY OWENER OR CONTRACTOR
BUILDER'S RISK INSURANCE			COST BASIS
ADEM PERMIT			COST BASIS
PERMITS (as required)			
MUNICIPAL & GOVERNMENT PERMITS (AS REQUIRED)			COST BASIS
PAYMENT & PERFORMANCE BONDS BUILDING PERMITS (IF REQUIRED)			COST BASIS
TEMPORARY CONSTRUCTION FENCING			COST BASIS
ONSITE SECURITY			COST BASIS

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ENGINEERING STAKEOUT		COST BASIS
TEMPORARY POWER		COST BASIS
TEMPORARY PERMANENT POWER NATURAL GAS		COST BASIS
PHOTOGRAPHS / DOCUMENTATION	\$ 300.00	PER MONTH
CONSTRUCTION SIGNAGE		COST BASIS
FIRST AID SUPPLIES/EQUIPMENT		COST BASIS
SUBMITTAL EXCHANGE SOFTWARE		COST BASIS
PROFESSIONAL DESIGN INSURANCE (IF REQUIRED)		COST BASIS
COVID SUPPLIES (AS REQUIRED)		COST BASIS

EX-5

HTC
HALL-TAYLOR
 CONSTRUCTION
 FUSCALOREA ALABAMA

ATTACHMENT "B"

HALL-TAYLOR CONSTRUCTION COMPANY, INC

EQUIPMENT RATES

EQUIPMENT	RATE	PER
Back Hoe	\$75.00	Hour
Dump Truck	\$95.00	Hour
Tractor w/Box Blade	\$60.00	Hour
Lull	\$85.00	Hour
Truck & Low Boy	\$105.00	Hour
Utility Trailer	\$15.00	Hour
Pick-Up Truck	\$300.00	Week
Level & Tri-Pod	\$95.00	Week
Surveying Layout Equipment	\$200.00	Day
Southern Linc/ Cell Phones	\$125.00	Month
Welder	\$200.00	Day
Shop Vacuum	\$25.00	Day
Storage Vans	\$300.00	Month
Golf Cart	\$125.00	Month
Copy Machine	\$250.00	Month
Oxygen/Cetylene Torches	\$20.00	Hour
Fax Machine	\$50.00	Month
Man Basket for Lull	\$50.00	Day
Pressure Washer	\$100.00	Day
Chain Saw	\$50.00	Day
Air Compressor w/Nail Guns	\$100.00	Day
Torpedo Heater	\$60.00	Day
Manlift	\$150.00	Day
Earth Tamp	\$150.00	Day
48" Shop Fan	\$21.00	Day
Air Compressor & Jack Hammer	\$200.00	Day
Generator	\$100.00	Day
D5 Dozier	\$95.00	Hour
D4 Dozier	\$75.00	Hour
Sump Pump	\$35.00	Day
Kubota Skid Steer	\$95.00	Hour
Lawn Mower	\$22.50	Hour
Internet Connection		COST BASIS
Computer/Printer/Software	\$375.00	Month
IPAD	\$50.00	Month
Cell Phone	\$135.00	Month

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Site Design
 Utility Design
 Transportation
 Environmental
 Surveying
 Construction Contract Administration
 2814 Stillman Boulevard
 Tuscaloosa, AL 35401
 Post Office Box 20559
 Tuscaloosa, AL 35402
 Telephone 205.759.1521
 Fax 205.759.1524
 www.mcgiffert.com

March 8, 2022

Mr. Jeff Cahill <jcahill@jmrha.com>
 Mr. Kevin Baughn <kbaughn@jmrha.com>
 JMR+H Architecture, PC

Re: Tuscaloosa County Jail
 Tuscaloosa, Alabama
 Professional Services Proposal

Mr. Cahill:

We greatly appreciate the opportunity to provide a proposal for our services associated with the above referenced project. The fee structure outlined below is based on the attached survey limits.

Anticipated Scope of McGiffert and Associates, LLC Services

Topographic and Boundary Survey

- The survey will include elevations of existing structures, roadway curbs, sanitary sewer and storm drainage facilities, etc. and will be generated on a one-foot contour interval. Please note that we will only provide the horizontal locations of underground utilities as located by "Alabama One Call". No private utilities will be surveyed unless said utilities are located by others.
- We have assumed that a "conventional" boundary survey will be acceptable, as we have included no fees for an ALTA/NSPS survey. Additionally, we will be able to only plot easements for which deeds are provided. No subdivision hearings or resurveys have been included.

Estimated Fee (Billed Hourly):.....\$19,600

We have attached as Exhibit "A", Exhibit "B" our 'General Terms and Conditions' and Exhibit "C" our 'Hourly Rate Schedule' associated with our work on this project. If you are in agreement with the above, please sign and return a copy to us for our files.

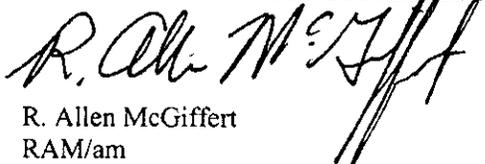
If Client verbally requests McGiffert and Associates, LLC to begin work or provide services as described in this proposal and McGiffert and Associates, LLC begins such work or provides such services before Client signs and returns this proposal, then Client shall be deemed to have accepted all provisions of this proposal, including the General Terms and Conditions attached hereto.

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We look forward to being a part of your project. If there is additional information we can provide, please advise.

Yours truly,

McGIFFERT AND ASSOCIATES, LLC



R. Allen McGiffert
RAM/am

Attachments:

- Exhibit "A", Survey Limits
- Exhibit "B", General Terms and Conditions
- Exhibit "C", Hourly Rate Schedule

ACCEPTED:

Client: _____

Signature: _____

Name: _____

Title: _____

Date: _____

ex 5-6

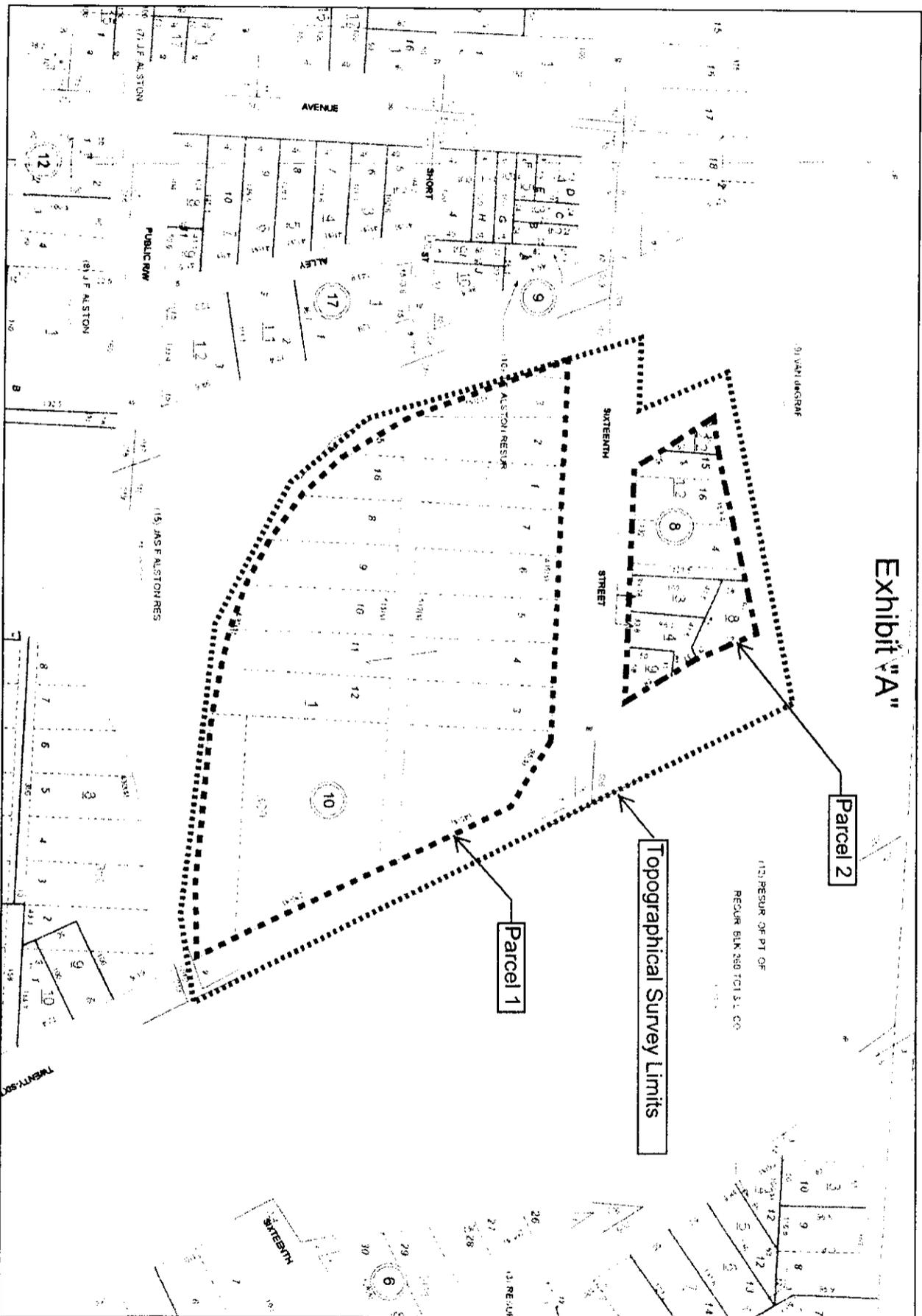


Exhibit "A"

Parcel 2

Topographical Survey Limits

Parcel 1

EX-5-6



GENERAL TERMS AND CONDITIONS

1. PAYMENT TERMS: McGiffert and Associates, LLC (hereafter "ENGINEER") will submit invoices to Client monthly, or less frequently as determined by ENGINEER, and/or a final bill upon completion of services. Payments are due upon receipt. Client's obligation to pay for services is in no way dependent upon Client's ability to obtain financing, obtain approval from any governmental or regulatory agency, real estate closing, receipt of payment from other parties or upon successful completion of the project. If payment is not received within thirty (30) days from the date of invoice, the amounts due may be subject to a late charge of one and a half percent (1.5%) per month, calculated from said thirtieth (30th) day. In addition, ENGINEER reserves the right to suspend services under this Agreement until such time as payment is made in full for all amounts due for services rendered and expenses incurred. Any attorney's fees, collection fees or costs related to or incurred in the collection of any past due amounts shall be paid by Client.

2. ADDITIONAL SERVICES: All estimated costs and hourly rates listed in the body of this Agreement or as an attachment are based on the scope of services as described therein. The scope of services may be changed only by mutual consent of Client and ENGINEER. If Client requests additional services beyond the scope set forth above, ENGINEER may perform the additional services at the unit rates in the Agreement or may attempt to negotiate a revised fee to the satisfaction of both Client and ENGINEER at that time. ENGINEER reserves the right to adjust any unit or hourly rates for inflation costs on a one-year interval from the date of this Agreement.

3. INSURANCE: ENGINEER shall secure and maintain insurance as required by law or statutory requirements which will protect ENGINEER from claims under the Worker's Compensation Acts and from claims for bodily injury, death, or property damage that may arise from the performance of ENGINEER'S services under and pursuant to this Agreement. Certificates of such insurance coverage will be provided to Client upon request.

4. STANDARD OF CARE: Services performed by ENGINEER on this project will be performed in a manner consistent with that level of care and skill ordinarily exercised under similar conditions by reputable civil engineers and surveyors practicing in the same or similar locality. No other warranty, expressed or implied, is made.

5. LIMITATION OF PROFESSIONAL LIABILITY: Client hereby agrees that to the fullest extent permitted by law, ENGINEER'S total liability to Client for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way relating to the project, the site, or this Agreement, from any cause or causes including but not limited to the ENGINEER'S negligence, errors, omissions, strict liability, breach of contract, or breach of warranty, shall not exceed the amount of insurance carried by ENGINEER. If Client prefers to have higher limits on ENGINEER'S professional liability, ENGINEER, at its sole discretion, may increase the limits upon Client's written request, provided that Client agrees to pay the cost for such additional insurance coverage. Client agrees to defend, indemnify, and hold ENGINEER, its agents, subcontractors, and employees harmless from and against any and all claims, defense costs, including attorney's fees, damages and other liabilities arising out of or in any way related to the services to be performed by ENGINEER hereunder, ENGINEER'S reports or recommendations concerning this Agreement or ENGINEER'S presence on the project property, and for damages caused by Client's failure to follow ENGINEER'S recommendations, provided that Client shall not indemnify ENGINEER against liability for damages to the extent caused by the negligence or intentional misconduct of ENGINEER, its agents, subcontractors, or employees.

6. CONSTRUCTION OBSERVATION AND SITE VISITS: If construction observation services are part of the Agreement, then the presence of field personnel, either full-time or at a lesser degree as determined by ENGINEER, will be for the purpose of providing periodic observation of the progress of the work. The Client agrees that the ENGINEER will not be responsible for supervising or directing the actual work of the contractor, its employees, subcontractors, or agents, and that the presence of ENGINEER'S representative, or observation by ENGINEER, shall not relieve the contractor of its responsibility for performing the work in accordance with the plans and specifications and will not create any liability to ENGINEER if the contractor's work deviates from the plans and specifications. ENGINEER shall not be responsible for construction site safety or construction procedures, nor will ENGINEER be responsible for the quality of the work performed by the contractor, subcontractors or other consultants. Client agrees that the contractor will be solely and completely responsible for working conditions on the job site, including safety of all persons and property during performance of the work, and compliance with OSHA and other Federal, State, and Local regulations, and that these requirements will apply continuously and not be limited to normal working hours. It is agreed that ENGINEER does not have the duty or right to stop the work of the contractor.

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7. SUBSURFACE RISKS: Client recognizes that special risks occur whenever engineering, surveying, or related disciplines are applied to identify subsurface conditions. Site exploration may fail to detect unknown or undocumented conditions such as sink holes, underground mines, caverns, hazardous materials, utilities, and other such conditions. Subsurface sampling may also result in unavoidable contamination of certain subsurface areas, or bodies of water if unknown contaminated zones exist at the site. The passage of time also must be considered, and Client recognizes that, due to natural occurrences or other direct or indirect human intervention at the site or distant from it, actual conditions may quickly change. Client understands that it is not possible to eliminate these risks and, therefore, waives any claims against ENGINEER for injury, loss, damage, or property liability that may arise from such subsurface conditions.

8. RIGHT OF ENTRY: Client shall provide access to and make all provisions for right of entry to ENGINEER and all necessary equipment and vehicles in order for ENGINEER to perform its services. It is understood by Client that in the normal course of providing such services some damage to property may occur, the correction of which shall not be the responsibility of ENGINEER and is not part of this Agreement.

9. TERMINATION: This Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure to perform in accordance with the terms of the Agreement by the other party through no fault of the terminating party. If this Agreement is terminated, it is agreed that ENGINEER shall be paid for all services performed up to the date of the termination notice, plus all reasonable expenses.

10. DELAYS: Neither party to this Agreement shall be liable to the other party for delays in performing the services, nor for direct or indirect costs resulting from such delays, that may result from labor strikes, riots, war, acts of governmental authorities, permitting agencies, easement acquisitions, extraordinary weather conditions or other natural catastrophes, or any other cause beyond the reasonable control of either party.

11. OWNERSHIP OF DOCUMENTS: All reports, plans, specifications, documents, surveying data, test results, and other materials resulting from ENGINEER'S services shall remain the property of ENGINEER. ENGINEER shall have the right to use or revise any such documents, including reports, plans and specifications, and surveys, as ENGINEER may choose or determine, including for use with other clients on any project, including the project made the subject of this Agreement if the project is not completed by Client. Client agrees that all plans, specifications, reports, surveys, and other work furnished to Client or his agents, which is not paid for, will be returned upon demand and will not be used by Client for any purpose whatsoever. Any reuse by Client for purposes outside of this Agreement or any failure to follow ENGINEER'S recommendations without ENGINEER'S written permission shall be at the user's sole risk.

12. CHOICE OF LAW; VENUE; WAIVER OF RIGHT TO JURY TRIAL: The terms of this agreement shall be governed according to the laws of the State of Alabama. All claims or causes of action arising from or related in any way to this agreement or the services performed by ENGINEER hereunder shall be brought before a court of competent jurisdiction sitting in Tuscaloosa County, Alabama. All claims or causes of action arising from or related in any way to this agreement or the services performed by ENGINEER hereunder shall be tried before a court without a jury.

13. SEVERABILITY AND SURVIVAL: Any element of this Agreement later held to violate a law shall be deemed void, and all remaining provisions shall continue in force. However, Client and ENGINEER will in good faith attempt to replace any invalid or unenforceable provision with one that is valid and enforceable, and which comes as close as possible to expressing the intent of the original provision. All terms and conditions of this Agreement allocating liability between Client and ENGINEER shall survive the completion of the services hereunder and the termination of this Agreement.

14. ELECTRONIC DOCUMENTS: ENGINEER may, at the request or convenience of Client or ENGINEER, provide documents in electronic format. Data, words, graphic representations, and drawings that are stored on electronic media or which are transmitted electronically, may be subject to uncontrollable alteration. The printed, signed and sealed hard copy is the actual professional instrument of service. In the event of a discrepancy between the electronic document and the hard copy document, the hard copy document will prevail.

15. STORMWATER: If the ENGINEER'S work or services involve NPDES stormwater permitting (as regulated by the Alabama Department of Environmental Management), monitoring, inspections, plans, or assistance with regard to grading, drainage or erosion control, it is understood that the ENGINEER will perform its work and services in accordance with the standard of care stated in Paragraph No. 4 above. However, client acknowledges that this work is very subjective and different government supervisors and inspectors have varying options of acceptability. Therefore, the ENGINEER shall not be liable for fines or damages as may be assessed against the Client as a result of the subjectivity of government personnel in performing their review of projects and Client shall indemnify and hold ENGINEER harmless from actions of third parties claiming damages caused by the project.

16. COMMENCEMENT OF SERVICES: If Client requests McGiffert and Associates, LLC to begin work or provide services as described in this proposal and McGiffert and Associates, LLC begins such work or provides such services before Client signs and returns this proposal, then Client shall be deemed to have accepted all provisions of this proposal, including the General Terms and Conditions attached hereto.



HOURLY RATES
(Effective thru December 31, 2022)

Principal/Project Manager	\$195 - \$220
Professional Engineer/Project Manager	\$165 - \$195
Engineer	\$115 - \$155
Engineer/Land Surveyor Technician	\$95 - \$105
Professional Land Surveyor	\$130
Land Surveyor Technician with GPS	\$130
Field Survey Crew	\$210
Engineer Technician/Environmental Specialist	\$85
CADD Technician/Designer	\$80 - \$95
Clerical	\$60 - \$70
Construction Technician	\$78 - \$85
Overtime Rate	\$90 - \$110
Transportation:	
Field Survey Crew Truck (per mile)	\$ 0.90
All Other Vehicles (per mile)	\$ 0.60
ATV	\$20/hr
Boat	\$50/hr
<i>(Rates in addition to personnel)</i>	
1. Printing cost of plans and specifications:	
* Mylar: \$3.25 per square foot	
* Paper: \$0.50 per square foot	
* 8 1/2" x 11" specifications: \$0.15 per sheet	
* Color Copies: \$1.60 per square foot	
2. Overnight mail requested by client billed or required for receipt at cost.	
3. Travel by common carrier and subsistence will be billed at cost.	
4. Outside services by consultants and funds expended for permits, fees, etc. will be billed using a multiplier of 1.15 x invoice amount.	
5. Water Pressure Recorder	\$27/day
6. Ultrasonic Flowmeter	\$30/day
7. EPA Compliant In-field pH Sampling & Test	\$55/each
8. EPA Compliant In-field Turbidity Sampling & Test	\$45/each

ECS-6



State of Alabama
County of TUSCALOOSA

Tuscaloosa Office
P.O. Box 2383
Tuscaloosa, AL 35403
(205) 343-2110
www.nationalland.com

PURCHASE AGREEMENT

This Purchase Agreement (this "Agreement") constitutes the sole agreement between the parties hereto and any modification of this Agreement shall be signed by all parties to this Agreement. No representation, promise, or inducement not included in this Agreement shall be binding upon any party hereto. If you have any questions, seek advice of legal counsel.

TUSCALOOSA COUNTY COMMISSION ("Buyer") hereby agrees to purchase and BERTHA B. WIGGINS ("Seller") hereby agrees to sell under the Conditions herein stated.

BUYER'S OFFER DATE: MAY 16, 2022

1. PURCHASE PRICE: The undersigned Buyer hereby offers to buy the property located in TUSCALOOSA County, Alabama commonly known as: (Address) 27 1/2 ACRES ON HWY 82 + MONTICELLO DRIVE

PARCEL #'S 3705210010002000 + 3705210010001000 and legally described as:

Actual legal description will be provided at Closing (the "Property").
DB _____ PG _____
for the sum of \$ 250,000 Dollars (the "Purchase Price"), including \$5,000 payable as earnest money (the "Earnest Money") and part of the Purchase Price, receipt of which is hereby acknowledged and on the terms stated below.

TERMS. The terms of the purchase shall be as indicated by "X" below (unmarked terms do not apply.)
 CASH. The full purchase price, less the earnest money previously deposited pursuant to this Agreement, is due upon execution and delivery of a Warranty Deed from Seller to Buyer.
 FINANCING. Sale is subject to Purchaser obtaining financing as follows:
 Conventional Equity Purchase Other

Buyer agrees to make a loan application and provide a letter of pre-qualification from a lender not later than _____ days from the Acceptance Date (Acceptance Date: _____).

2. ADDITIONAL PROVISIONS:
CONTRACT CONTINGENT ON APPROVAL BY TUSCALOOSA COUNTY COMMISSION

Note: If an Equity Purchase, such terms are to be attached to this contract as an addendum.

WR 5/18/22
Buyer's Initials Date

Seller's Initials Date

CBH 5-16-22
Agent's Initials Date

EX 5-7

3. **WARRANTIES:** Buyer hereby acknowledges and affirms that, except for the warranties of title to be included in Seller's deed of the Property, SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY OR FITNESS OF THE PROPERTY FOR ANY PURPOSE, OR AS TO THE MERCHANTABILITY, VALUE, QUALITY, ACREAGE, CONDITION, OR SALEABILITY OF THE PROPERTY. The sale of the Property by Seller to Buyer shall be "AS IS". It shall be the Buyer's responsibility to inspect the Property to ensure that it is suitable for Buyer's use.
4. **TITLE INSURANCE:** Within 10 days after the date hereof or Inspection Period ending whichever is greater, Buyer may obtain a title commitment ("Title Binder") covering the Property and binding a title company, selected by Buyer, to issue both an owner's and mortgagee's (if applicable) title policy in the amount of the Purchase Price. **Paragraph #13 determines who pays for title policy and search fee.** Buyer shall have 10 days after the receipt of the Title Binder to review it and to deliver to Seller such objections as Buyer may have to anything contained therein. If there are objections by Buyer, Seller shall in good faith attempt to satisfy these objections within a period of 15 days after receipt of such objections. If Seller is unable to satisfy such objections, or if, for any reason, Seller is unable to convey good and marketable, fee simple title to the Property, Buyer may either waive such objections and accept such title as Seller is able to convey or by notice to Seller terminate this Agreement and receive a return of the Earnest Money paid hereunder. "Good and marketable, fee simple title" shall be such title as is acceptable to a reputable title insurance company licensed to transact business in the State of Alabama and which will issue a standard and customary form of owner's title insurance policy in a form substantially similar to the 1992 ALTA Owner's Policy at its standard rates subject to the aforementioned permitted exceptions and standard permitted exceptions in such title policy.
5. **SECTION 1031 EXCHANGE; ASSIGNMENT:** Seller or Buyer may assign its rights hereunder to any person or entity. Each agrees to cooperate with the other if one, or both, of them elects to convert this transaction into an I.R.C. Section 1031 like kind exchange; provided that in connection with any exchange, if either Seller or Buyer elects not to make use of this option, neither party will be obligated to incur any liability or financial obligation, or take title to any other property of the other, in excess of those they would incur if this transaction closed as a sale. **If not applicable check here:**
6. **CONVEYING CRP/WRP/GRP/CSP LAND:** Immediately report to your FSA officer if any part of CRP acreage is conveyed in any manner. The new owner must succeed to the CRP contract within 60 days. Carry a copy of your recorded deed to your FSA office within this 60 day window. It is the responsibility of the new owner to notify the FSA office of this transfer or conveyance. **If not applicable check here:**
7. **MINERAL RIGHTS:** Seller agrees to convey 100 percentage of mineral rights owned by the Seller.
8. **INSPECTION PERIOD:** Unless modified in the Purchase Agreement, Buyer shall have not less than _____ days after receipt by Buyer of the fully executed Purchase Agreement to satisfy itself of the items received. If Buyer, in its sole discretion, shall within the Inspection Period notify Seller, in writing, of any objection or dissatisfaction, then the agreement between the parties will terminate and any earnest money deposited shall be refunded to Buyer.
Inspection Period: _____ or **NO**
YES
9. **TAX PRORATION, ASSOCIATION FEES, AND LEASES:** All ad valorem taxes, any association fees, and any rents being collected from existing tenants will be prorated at time of Closing. NOTE: Taxes are prorated based upon current information furnished by the Tax Assessor's Office.

wd 5/10/22
Buyer's Initials Date

Seller's Initials Date

let 5-16-22
Agent's Initials Date

EX 5-7

10. MUNICIPAL ASSESSMENTS: Municipal assessments which become a lien on the property prior to the Closing Date shall be paid by the Seller, without proration. Any public improvements, now installed but not yet a lien, shall be assumed by the Buyer.
11. RISK OF LOSS: The risk of loss by fire or other casualty shall be borne by the Seller until title to the Property is conveyed to Buyer. If the Property is wholly or partially destroyed by fire or other casualty before Closing, either party shall have the option to terminate this Agreement without liability and, in such event, the Earnest Money heretofore paid by Buyer to Seller shall be returned.
12. CLOSING: The sale shall be closed no later than JULY 21, 2022 (the "Closing Date" or the "Closing") and at such time the Seller shall provide to Buyer a warranty deed conveying the Property to Buyer. The sale will close at the offices of TBD at TBD local time on the Closing Date, or at such other time and place as shall be mutually agreed upon by the parties. The cost of preparation of such other documents as may be necessary to cure any title defects and thereafter convey good and merchantable title to Buyer shall be paid by Seller. All other costs shall be paid by the party incurring them, or as otherwise set forth herein.

13.

Closing Costs – X or ✓ Means Pay

	BUYER TO PAY	SELLER TO PAY
Deed Preparation	<u>✓</u>	_____
Survey Costs	_____	_____
Financing Costs	_____	_____
Owner's Title Insurance/Search Fee	<u>✓</u>	_____
Mortgage Title Insurance/Search Fee	_____	_____
Recording Costs	<u>✓</u>	_____
Closing Attorney Fees	<u>✓</u>	_____
Real Estate Commission	_____	<u>✓</u>
Miscellaneous Expenses	_____	_____

14. DELIVERY OF POSSESSION: Possession of the Property shall be delivered to Buyer at Closing.
15. EARNEST MONEY DEPOSIT: Buyer will deposit the Earnest Money with NATIONAL LAND REALTY ("Company") to be applied as part of the Purchase Price at Closing, receipt of which is hereby acknowledged by Seller. The Company will hold the Earnest Money in its possession until Closing, at which time the Earnest Money will be applied to the Purchase Price. In the event the Buyer fails to perform under this Agreement, Seller's sole remedy shall be to terminate this Agreement and keep the Earnest Money as liquidated damages. **ANY AND ALL EARNEST MONIES WILL BE RETAINED BY SELLERS AS LIQUIDATED DAMAGES.** Should Seller fail to perform under this Agreement, or should any other event occur as specified herein entitling Buyer to a return of the Earnest Money, Buyer shall be entitled to a return of the Earnest Money. In the event either Buyer or Seller claim the Earnest Money without the consent of the other party, the Company may interplead the Earnest Money into a court having jurisdiction, and shall be entitled to deduct from the Earnest Money its expenses for court costs, attorneys' fees, and other expenses relating to the interpleader action.

WA 5/10/22
Buyer's Initials Date

Seller's Initials Date

WAH 5-16-22
Agent's Initials Date

EX 5-7

16. DISCLOSURE OF INFORMATION: The Purchase Price and terms of this Agreement may be disclosed to other Licensed Real Estate Brokers and Appraisers for use in the ordinary conduct of their business.
17. AGENCY DISCLOSURE PURSUANT TO SECTION 34-27-8(c), CODE OF ALABAMA (1975): Each offer to purchase shall have prominently displayed the following AGENCY DISCLOSURE clause which shall be completed and initialed as indicated:

The Listing Company is: NATIONAL LAND REALTY

(Two of the following may be checked)

- An agent of the Seller
 An agent of the Buyer
 An agent of both the Seller and Buyer and is acting as a limited consensual dual agent,
 Assisting the () Buyer () Seller as a transactions broker

The Selling Company is: NATIONAL LAND REALTY

(Two of the following may be checked)

- An agent of the Seller
 An agent of the Buyer
 An agent of both the Seller and the Buyer and is acting as a limited consensual dual agent,
 Assisting the () Buyer () Seller as a transaction broker.

All parties agree that the Alabama Real Estate Consumer Agency Disclosure Act has been explained to them.

18. FACSIMILE OR COUNTERPART SIGNATURES: This Agreement may be delivered by either party or all parties by telecopy or facsimile, and shall be binding upon the party so executing it upon the receipt by the other party of the fully executed contract.
19. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between Buyer and Seller regarding the Property, and supersedes all prior discussions, negotiations, and agreements between Buyer and Seller, whether oral or written. Unless specifically set forth herein, Buyer, Seller, Broker, and all salespersons shall not be bound by any prior understanding, agreement, promise, representation concerning the Property, whether expressed or implied.
20. BINDING NATURE: This Agreement shall be binding on the successors and assigns of Buyer and Seller.
21. COMMISSIONS: THE COMMISSIONS PAYABLE FOR THE SALE OF PROPERTY ARE NOT SET BY ANY ASSOCIATION OF REALTORS, BUT ARE IN ALL CASES NEGOTIABLE BETWEEN THE BROKER AND THE CLIENT. In this Agreement, the Seller(s) () Buyer(s) () agrees to compensate National Land Realty with a commission fee of 3% of the total sales price for sale.
- The Seller(s) () Buyer(s) () agrees to compensate _____ with a commission fee of _____ of the total sales price for sale.
- All commissions to be paid at closing.
22. GOVERNING LAW: This Agreement shall be construed in all respects by the laws of the State of Alabama.
23. BUYER'S AND SELLER'S ACKNOWLEDGMENT: Buyer and Seller acknowledge receipt of a copy of this Agreement and attached addenda, if any, which are made part of this Agreement.

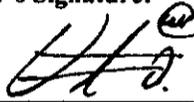
WR 5/18/22
 Buyer's Initials Date

 Seller's Initials Date

LEH 5-16-22
 Agent's Initials Date

EX 5-7

Buyer's Signature:

 Tara Scott

Witness to Buyer's Signature



Buyer's Signature
AS CHAIRMAN, TUSCALOOSA
COUNTY COMMISSION

5/18/22
(Date)

Seller's Signature:

Witness to Seller's Signature

Seller's Signature

(Date)

EX-5-7

REAL ESTATE BROKERAGE SERVICES DISCLOSURE - RULE 790-X3.13(1)

THIS IS FOR INFORMATION PURPOSES. THIS IS NOT A CONTRACT.

Alabama law requires you, the consumer, to be informed about types of services which real estate licensees may perform. The purpose of this disclosure is to give you a summary of these services.

A SINGLE AGENT is a licensee who represents only one party in a sale. That is, a single agent represents his or her client. The client may be either the seller or the buyer. A single agent must be completely loyal and faithful to the client.

A SUB-AGENT is another agent/licensee who also represents only one part in a sale. A sub-agent helps the agent represent the same client. The client may be either the seller or the buyer. A sub-agent must also be completely loyal and faithful to the client.

A LIMITED CONSENSUAL DUAL AGENT is a licensee for both the buyer and the seller. This may only be done with the written, informed consent of all parties. This type of agent must also be loyal and faithful to the client, except where the duties owed to the client conflict with one another.

A TRANSACTION BROKER assists one or more parties, who are customers, in a sale. A transaction broker is not an agent and does not perform the same services as an agent.

*Alabama law imposes the following obligations on all real estate licensees to all parties, no matter their relationship:

1. To provide services honestly and in good faith;
2. To exercise reasonable care and skill;
3. To keep confidential any information gained in confidence, unless disclosure is required by law or duty to a client, the information becomes public knowledge, or disclosure is required by law or duty to a client, the information becomes public knowledge, or disclosure is authorized in writing;
4. Present all written offers promptly to the seller;
5. Answer your questions completely and accurately.

Further, even if you are working with a licensee who is not your agent, there are many things the licensee may do to assist you. Some examples are:

1. Provide information about properties;
2. Show properties;
3. Assist in making a written offer;
4. Provide information on financing.

You should choose which type of service you want from a licensee, and sign a brokerage service agreement. If you do not sign an agreement, by law the licensee working with you is a transaction broker.

The licensee's broker is required by law to have on file an office policy describing the company's brokerage services. You should feel free to ask any questions you have.

The Alabama Real Estate Commission requires the real estate licensee to sign, date, and provide you a copy of this form. Your signature is not required by law or rule, but would be appreciated.

AVAN HIXON
Agent Print Name
[Signature]
Agent Signature
5-16-22
Date

Wanda Robertson, Jr.
Consumer Print Name
[Signature]
Consumer Signature
5/19/22
Date
AS WITH, NICHOLSON CO.
COMMISSION.

*THIS PAGE IS NOT A CONTRACT.

EX-5-7

Wiggins Property - Maxwell Elementary



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**TUSCALOOSA COUNTY COMMISSION MEETING AGENDA
MAY 18, 2022**

- 1. Pledge of Allegiance**
- 2. Call to Order**
- 3. Approval of Minutes**

- 4. Melvin Vines, County Administrator**
 - A. Executive session to discuss legal matters and contract negotiation
 - B. Approval of Cost of Living bonus for County Retirees
 - C. Declare as surplus – Lot no. 6, Block 1, Hulsey’s Holt Subdivision No. 1

- 5. Scott Anders, County Engineer**
 - A. Preliminary Subdivision to be voted on by the Commission for approval:
 1. Dockery Place, Resurvey of Lots 1 and 2, District 3
 - B. Preliminary Subdivision Plats to be presented to the Commission for review:
 1. Dawn Marie Estates, District 4
 2. Part of Unit 70, District 3

- 6. April Hoffman, Chief Financial Officer**
 - A. Warrants approval for April 2022

- 7. Robert Spence, County Attorney**
 - A. Begin condemnation proceedings:
 1. 3101 NE Pine Crest Rd, Holt, District II

- 8. Sheriff’s Office**
 - A. Award Construction Manager for Jail addition/renovation project
 - B. Declare Hangar as surplus and suitable for sale

- 9. RFP Responses for Topographical Engineering – Medical/Mental Health Unit Expansion at Jail**

- 10. David Popen and Jean Rykaczewski**
 - A. West Alabama Food Bank Presentation

- 11. Wright Waters and Loo Whitfield**
 - A. Tuscaloosa Toyota Classic Golf Tournament
 1. Epson Tour | Tuscaloosa Toyota Classic

- 12. Caroline Sprayberry and Jeff McJenkin**
 - A. Homes in River Point

- 13. Jerry Carter**
 - A. Playground on property behind Jail

- 14. Commissioner Stan Acker – District I**

- 15. Commissioner Jerry Tingle – District II**

- 16. Commissioner Mark C. Nelson – District III**
 - A. Maxwell Elementary Property Purchase

17. Commissioner Reginald Murray – District IV

18. Public Comment

19. Adjournment