

BILL NO.: 5024

ORDINANCE NO.: _____

Introduced by: City Manager Nathan Mai-Lombardo

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH LCS, LLC FOR FIREHOUSE #2 CONSTRUCTION

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, MISSOURI, AS FOLLOWS:

Section 1. The City Manager is hereby authorized to enter into and execute an agreement with LCS, LLC for the Firehouse #2 Construction.

Section 2. The agreement is attached and hereby incorporated herein and made a part of this ordinance, as if fully set out herein.

Section 3. This Ordinance shall be in full force and effect from and after its date of passage.

1st Reading this _____ day of _____ 2024

2nd Reading this _____ day of _____ 2024

3rd Reading, PASSED and APPROVED, this _____ **day of** _____ **2024**

Babatunde Deinbo, Mayor

ATTEST:

Deanna L. Jones, City Clerk

Final Roll Call:

Councilwoman Verges	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Williams	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman Hoskins	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Anthony	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman Hindeleh	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman-at-Large Crawford-Graham	Aye ___	Nay ___	Absent ___	Abstain ___

Approved as to Form:
Donnell Smith, City Attorney

Mayor Deinbo Aye ___ Nay ___ Absent ___ Abstain ___



TO: CITY OF BERKELEY, MO
FROM: RYAN WILSON, PROJECT MANAGER
SUBJECT: BERKELEY FIRE HOUSE 2 CONSTRUCTION
DATE: MARCH 13, 2024
CC: NATHAN MAI-LOMBARDO

The City of Berkeley MO solicited bids for the construction of the new Fire House No. 2 on February 20, 2024. Advertisements were made in local newspapers, bid rooms, the City's website, and notice of bid was Issued by NAVIGATE to several General Contractors.

Bids were received on March 5, 2024, at 2pm. A total of five (5) bids were received at the City of Berkeley City Hall. The Bid Tabulation is attached. The project team, including the City of Berkeley, NAVIGATE Building Solutions, and Chiodini Architects performed a preliminary evaluation of the bids and recommended pre-award conferences be held with the two General Contractors deemed lowest, responsive bidders.

On March 8, 2024, pre-award interviews were conducted with LCS, LLC and Lawlor Corporation. From those interviews, discussion with submitted references, and based on the preliminary evaluation of the bids, LCS, LLC was identified as the lowest responsive bidder.

Included in the bid form, bidders were asked to identify their construction duration in calendar days from issuance of Notice to Proceed. LCS, LLC was identified as the GC with the best comprehensive construction duration at 365 calendar days.

Additionally, the bidders were asked to price two (2) alternates.

1. Alternate #1 for a deduct to use sectional aluminum overhead doors for doors 112C and 122D in lieu of tri fold doors for a reduced cost of \$76,604.00.
2. Alternate #2 is for installing a new trench drains in the apparatus bay 122 in lieu of traditional floor drains for an additional cost of \$20,382.00.

It is recommended at this time that Alternate #2 is accepted in the amount of \$20,382 for the trench drains in the apparatus bay 122.

Based on the information above, it is being recommended that the City of Berkeley award the General Contracting package for the construction of the new Fire House 2 to LCS, LLC in the amount of \$3,401,113.00, which includes a \$25,000 water tap allowance and Alternate #2 in the amount of \$20,832.00.

This will verify that at 2:00 Pm on March 5 2024
BID NO.945 "Fire House #2 Construction" was opened and read aloud
Signed: Karema Thabet Title: Contract Specialist



Name of Bidder:	Name of Bidder:	Name of Bidder:	Name of Bidder:	Name of Bidder:
HANKINS CONSTRUCTION	INTEGRA INC	LAWLOR CORPORATION	LCS, LLC	VANSTAR CONSTRUCTION
Bid Bond: Yes_X_ No ___	Bid Bond: Yes_X_ No ___	Bid Bond: Yes_X_ No ___	Bid Bond: Yes_X_ No ___	Bid Bond: Yes_X_ No ___

Pg.No	Item Description					
1	BID PROPOSAL FORM	X	X	X	X	X
2-3	ALTERNATES	X	X	X	X	X
5	EXPERIENCE	X	X	X	X	X
3	REFERENCES	X	X	X	X	X
3	TIME	330 DAYS	365 DAYS	420 DAYS	365 DAYS	472 DAYS
2	BID BASE	\$3,656,000.00	\$3,617,800.00	\$3,506,024.00	\$3,389,731.00	\$4,084,000.00
2	ALTERNATE #1	\$76,000.00	\$76,604.00	\$76,604.00	\$76,604.00	\$75,000.00
3	ALTERNATE #2	\$32,000.00	\$23,819.00	\$22,242.00	\$20,382.00	\$26,000.00
2	Total Bid Price	\$3,656,000.00	\$3,617,800.00	\$3,506,024.00	\$3,389,731.00	\$4,084,000.00
	No. of copies	2	2	2	2	2



AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the 19 day of March in the year 2024
(In words, indicate day, month and year.)

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

City of Berkeley MO
8425 Airport Road
Berkeley, MO 63134

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

LCS, LLC
1024 Cool Springs Industrial Drive
O’Fallon, MO 63366

for the following Project:
(Name, location and detailed description)
City of Berkeley Fire House No. 2 Construction
9263 Natural Bridge Rd
St. Louis, MO 63134

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

Chiodini Architects
1401 S Brentwood Blvd.
St. Louis MO, 63144

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
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8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- The date of this Agreement.
- A date set forth in a notice to proceed issued by the Owner.
- Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

The date of commencement of the Work shall be fixed in a notice to proceed issued by the Owner or shall be the date of this Agreement, whichever is issued first.

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

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of all work related to new construction, renovations, bid alternates, anticipated soil

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treatment/remediation identified on the bid form, and associated Site Work in phased substantial completion phases as follows:

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

[X] Not later than 365 calendar days from the date of commencement of the Work.

[] By the following dates:

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

Portion of Work

Substantial Completion Date

The Contractor has contemplated all adverse weather within the project schedule and the Contract Time. Contractor accepts all risks associated with adverse weather. No time extensions will be granted related to claims of adverse weather conditions. No claims for extra costs will be granted related to adverse weather and/or taking action to deal with adverse weather and/or the effects of adverse weather. All provisions in the A101 and A201 otherwise respecting weather and that are inconsistent herewith are superseded by this provision, and are of no force and effect.

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5. Such damages shall be in addition to, and not in lieu of, any other rights or remedies Owner may have against Contractor for failure to timely achieve Substantial Completion, and damages for failure to achieve Substantial Completion and failure to achieve Final Completion may run concurrently. If the Work is not finally completed by the time stated in the Agreement, or as extended, no payments for Work completed beyond that time shall be made until the Project reaches Final Completion.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum including Performance and Payment bonds shall be Three Million Four Hundred Ten Thousand One Hundred and Thirteen Dollars and 00/100 (\$ 3,410,113.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
Alternate #2: Trench Drains in Apparatus Bay 122	\$20,382.00

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. The Owner reserves the Right to accept the following alternates through the Change Order Process post execution of this Agreement for the amounts below. This Contractor must hold prices for these Alternates.

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price
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§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price
MOAM Tap Fee Allowance	\$25,000

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

Item	Units and Limitations	Price per Unit (\$0.00)
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§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

Contractor understands that time is of the essence for the Owner as to the deadlines set forth in this Contract, that Owner will be harmed if Contractor fails to complete the Project in timely manner, that precise quantification of damages for such harm would be difficult, and the amounts specified herein as Liquidated Damages for delay are reasonable. Contractor shall be responsible to maintain scheduled items for the Contractor’s work as shown in the Contract Documents. In the event that the Contractor does not substantially complete the work by the required Substantial Completion date, the Contractor agrees to pay the Owner, or to deduct from the Contract Sum, not as a penalty, but as liquidated damages, the amount of \$1,000 for each and every calendar day for the first 30 days that Substantial Completion date is delayed. Thereafter, liquidated damages shall increase to \$2,000 per day. If Contractor shall neglect, refuse, or fail to complete the remaining work and closeout documents within Thirty (30) calendar days after Substantial Completion date (including any proper extension granted by the Owner), Contractor shall pay the Owner the stipulated sum of Five Hundred Dollars (\$500) for each day that expires after the time specified for completion & readiness for final payment.

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

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

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

§ 5.1.3 Provided that a draft Application for Payment is received electronically by the Architect and the Owner’s Representative not later than the 20th day of the invoicing month and subsequently recommended for approval, and the official Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the last day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than Thirty (30) days after the Architect receives the Application for Payment. Moreover, if Owner is entitled to deduct damages or amounts provided in the Contract Documents, including clean-up fees, then Owner shall be entitled to deduct such damages, amounts and fees at any time (Federal, state or local laws may require payment within a certain period of time).

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the

various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. If Contractor fails or refuses to complete the Work, or has unsettled claims with Owner, any payment to Contractor shall be subject to deduction for such amounts as the Architect shall determine as the cost for completing incomplete Work and the value of unsettled claims.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

Applications for Payments shall be submitted on AIA Documents G702 and G703 or similar form. In the event of a dispute with regard to any item included in an Application for Payment, the Owner shall make payment for items not in dispute and shall have the right to withhold from payment the amount of such disputed item while the parties attempt to resolve the dispute in accordance with the dispute resolution provisions provided for in the Contract Documents.

Such applications shall include:

- Certified payrolls, An original accounting of all labor rates and hours of Work
- Invoices for all materials, rental equipment, and Contractor's statements.
- Copies of Contractor's daily log
- Compliance with prevailing wage laws as per annual wage order issued with this contract
- If invoicing for stored materials that have not been delivered to the project site, the following must be provided: proof of stored materials including certificate of insurance for facility where materials are stored, photographs of such materials, materials are labeled with signs indicating materials are "Property of City of Berkeley, Missouri" and copies of invoices for materials from the vendors/supplier.

§ 5.1.6 In accordance with AIA Document A201™-2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five Percent (5%) Pending final determination of cost to the Owner of Changes in the work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2017, General Conditions of the Contract for Construction;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing, less retainage of Five Percent (5%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2017.

§ 5.1.6.2 The progress payment amount determined in accordance with Section 5.1.6.1 shall be further modified under the following circumstances:

.1

(Paragraphs deleted)

Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and.

(Paragraph deleted)

.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-2017.

§ 5.1.7 Retainage

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

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

5%

§ 5.1.7.1.1 The following items are not subject to retainage:

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

None

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

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

None

§ 5.1.7.3 Deleted

§ 5.1.8 Deleted

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

At the time of this agreement, there are no known advance payments requested.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum minus disputed sums and authorized deductions, shall be made by the Owner to the Contractor after:

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.
- .3 The Contractor has completed all punchlist items to the satisfaction of the Owner's Representative, Architect and Owner.
- .4 The Contractor has delivered all closeout Documentation required under the Contractor Documents, which include (1) original-final release of claims from Contractor (AIA G706 and G706A), in triplicate-operation and maintenance instructions/manuals; (1) original of final certified payrolls from Contractor and all lower tiered subcontractors, (1) original affidavit of compliance with prevailing wage laws from contractor and all lower tiered subcontractors, schedules, in triplicate equipment manuals, in triplicate marked up record documents, and in triplicate other closeout documents reasonably required by the Owner.

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

§ 5.3 Interest

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

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

%

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker. Any claims or disputes between the parties of this agreement arising from or relating to this agreement or breach thereof, shall, as a condition prior to binding litigation, shall be submitted to non-binding mediation. The mediator’s fees and expenses and any costs associated with the mediation shall be borne equally by both parties. Each party shall be responsible for paying its own costs, expenses, and attorney fees related to participating in the mediation. Disputes under this agreement shall be exclusively litigated in the Circuit Court for St. Louis County, Missouri.

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

§ 6.2 Binding Dispute Resolution

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

(Check the appropriate box.)

Arbitration pursuant to Section 15.4 of AIA Document A201–2017

Litigation in a court of competent jurisdiction

Other (Specify)

Mediated as provided in Section 15.3 thereof. If either party so desires, or if mediation fails to resolve the dispute, the dispute may be resolved by litigation.

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

ARTICLE 7 TERMINATION OR SUSPENSION

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

§ 7.1.1

(Paragraphs deleted)

Deleted

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

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

§ 8.2 The Owner’s representative:

(Name, address, email address, and other information)

Navigate Building Solutions, LLC

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8419 Manchester Road
Brentwood, MO 63144

The Owner has retained Navigate Building Solutions, LLC as its Owner's Representative for the project. The Contractor shall cooperate with the Owner's Representative to the same extent as the Owner.

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Steve Layne, Principal / Project Manager
(636) 734-6968
slayne@lcsconstruct.com
1024 Cool Springs Industrial Dr.
O'Fallon, MO 63366

(Paragraph deleted)

§ 8.3.3 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Contractor shall secure and maintain at its own cost and expense and throughout the duration of this Contract and until the work is completed and accepted by the Owner, insurance of such types and in such amounts as may be necessary to protect it and the interests of the Owner against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the Owner. Bid package requires AM Best rating of A-IX or higher. Regardless of such approval, it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.

Certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the Owner within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work. Work may not proceed until proof of all required insurance has been provided to the Owner. All insurance policies shall include an ISO Additional Insured Endorsement (CG 20 10 and CG 20 37 2004 editions or equivalent) listing the Owner and the Owner's Representative as additional insureds on a primary basis with owner and/or construction manager insurance excess and not contributory, general liability and auto to contain waiver of subrogation in favor of Owner and its officers, directors and employees, and an ISO Notice of Cancellation/Modification Endorsement providing thirty (30) days written notice to be given by the insurance company to the Owner prior to modification or cancellation of such insurance.

Such notices shall be sent via email to the Owner's Representative AND the Owner directly.

§ 8.5.2 Minimum Coverages

The minimum coverage for the insurance referred to herein shall be in accordance with the requirements established below:

- a. Workers' Compensation: Statutory coverage per R.S.Mo. 287.010 et seq.; Employer's Liability: \$1,000,000.00 for bodily injury each accident or disease, each employee for injury by disease.
- b. Commercial General Liability Insurance: ISO occurrence form CG00010798 or later edition or equivalent substitute form. Including coverage for Premises, Operations Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to Bodily Injury and Property Damage on an "Occurrence Form Basis" with limits of Three Million Dollars (\$3,000,000.00) for all claims arising out of a single

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accident or occurrence, Three Million Dollars (\$3,000,000.00) for products/completed operations and One Million Dollars (\$1,000,000.00) for any one person in a single accident or occurrence/advertising injury. Aggregate limits to apply separately to the Project other than completed operations hazards. ISO CG 25 03 endorsement for general aggregate limit of Three Million Dollars (\$3,000,000.00).

- c. Automobile Liability Insurance: ISO CA0001, CA0002, CA0005, CA0020 or equivalent. Covering Bodily Injury and Property Damage for owned, non- owned and hired vehicles with limits of Three Million Dollars (\$3000,000.00) for all claims arising out of a single accident or occurrence.
- d. Owner's and Contractor's Protective Liability Insurance, to protect the Owner, its agents, servants and employees from claims which may arise from the performance of this Contract, with limits of Three Million Dollars (\$3,000,000.00) for all claims arising out of a single accident or occurrence and Five Hundred Thousand (\$500,000.00) for any one person in a single accident or occurrence.

The Owner's and Contractor's Protective Liability Insurance must:

- (1) be a separate policy with the named insured being the Owner;
 - (2) be with the same insurance company with which the Contractor carries its Commercial General Liability Insurance and Automobile Liability Insurance; and
 - (3) contain an endorsement that disclaims coverage for any claim barred by the doctrines of sovereign immunity or official immunity, except attorney's fees and other litigation costs incurred in defending a claim. Nothing contained in this policy (or this endorsement thereto) shall constitute any waiver of whatever kind of these defenses or sovereign immunity or official immunity for any monetary amount whatsoever.
- e. All-Risk Builders Risk Insurance (required by the Owner): Unless specifically authorized by the Owner, the amount of such insurance shall not be less than the total contract price. The policy shall name as insured the Contractor and the Owner.
 - f. Umbrella Excess: Two Million Dollars (\$2,000,000) per occurrence and aggregate over employer's liability, general liability, and auto liability, with "follow-form" of underlying policies.

§ 8.5.2.1 Subcontractors

The Contractor shall require all subcontractors to procure and maintain all insurance required in this section and in like amounts and shall provide evidence of such insurance, with the following exceptions:

- a. Subcontractors are not required to provide All-Risk Builders Risk Insurance;
- b. Subcontractors with an initial contract amount less than \$100,000.00 may provide liability coverage limits of \$1,000,000.00 in addition to a \$1,000,000.00 umbrella policy;
- c. Subcontractors need not carry OCPL coverage if contractor's coverage is inclusive;
- d. The Contractor and/or subcontractor shall furnish the Owner prior to beginning any work satisfactory proof of carriage of all the insurance required by this Contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the Owner.

§ 8.5.3 Pending Legislation

If the scope or extent of the Owner's tort liability as a governmental entity as described in Section 537.600 through 537.650 R.S.Mo. is broadened or increased during the term of this agreement by legislative or judicial action, the Owner re Contractor, upon 10 days written notice, to execute a contract addendum whereby the Contractor agrees to a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as may require to protect the Owner from increased tort liability exposure as the result of such legislative or judicial action. Any such

additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

§ 8.5.3 Performance and Payment Bonds

The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the Owner and on the forms approved by the Owner. Each bond shall be in the full amount of the parties' contract and shall be conditioned upon the full and faithful performance of all major terms and conditions of the contract and the payment of all labor and material suppliers. If at any time after the execution of a contract and the surety bonds (in the forms attached hereto) the Owner shall deem any bond surety to be unsatisfactory, or if for any reason, a bond ceases to be adequate to cover the performance of the work or the payment of labor and materials, the Contractor shall, at its expense and within five (5) days after the receipt of notice from the Owner to do so, furnish an additional bond or bonds, in such form and amount, and with such surety or sureties as shall be satisfactory to the Owner. In such event no further payment to the Contractor shall be deemed to be due under this contract until such new or additional security for the faithful performance of the work and the payment of labor and material suppliers shall be furnished in a manner and form satisfactory to the Owner. The corporate surety on any performance or payment bond must be licensed by the State of Missouri and must be listed in United States Treasury Circular 570, and the bonds shall be accompanied by current powers of attorney, on a form acceptable to Owner.

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2017. (State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2017.)

§ 8.6

(Paragraphs deleted)

Deleted

§ 8.7 Compliance with Laws:

§ 8.7.1 The Contractor shall comply with all local, state, and federal laws, rules, and regulations applicable to the provision of services and products under the Contract, including but not limited to: the Americans with Disabilities Act, employment discrimination laws, wage and hour laws (including as required by Sections 290.210 et seq. R.S.Mo.), the transient employer financial assurance law (Sections 285.230 et seq. RSMo.), and public contracting laws. The Contractor affirmatively states that payment of all local, state, and federal taxes and assessments owed by the Contractor is either current or under lawful protest with the applicable taxing jurisdiction.

§ 8.7.2 Not less than the prevailing hourly rate of wages specified under Section 290.210-290.340 of the Revised Missouri Statutes and set out in the Wage Determination shall be paid to all workers performing Work under this Contract. The Contractor shall forfeit as provided in Section 290.250 of the Revised Missouri Statutes as a penalty to the Owner the sum of One Hundred Dollars (\$100.00) for each worker employed, for each calendar day, or portion thereof, that such worker is paid less than the prevailing rate for any work done under said Contract by the Contractor or by any of its Subcontractors.

§ 8.7.3 The Contractor and all subcontractors to the contract must require all on-site employees to complete the ten-hour safety training program required under Section 292.675, RSMo, if they have not previously completed the program and have documentation of having done so. The Contractor will forfeit a penalty to the Owner of \$2500 plus an additional \$100 for each employee employed by the Contractor or Subcontractor, for the calendar day, or portion thereof, such employee is employed without the required training.

§ 8.7.4 Every transient employer, as defined in Section 285.230, RsMo, must post in a prominent and easily accessible place at the work site a clearly legible copy of the following: (1) The notice of registration of employer withholding issued to such transient employer by the director of revenue; (2) Proof of coverage for workers' compensation insurance or self-insurance signed by the transient employer and verified by the department of revenue through the records of the division of workers' compensation; and (3) The notice of registration for unemployment insurance issued to such transient employer by the division of employment security. Any transient employer failing to comply with these requirements shall, under section 285.234, RsMo, be liable for a penalty of Five Hundred Dollars (\$500.00) per day until the notices required by this section are posted as required by that statute.

§ 8.8 Certified Payroll:

§ 8.8.1 The Contractor & each Subcontractor are required to submit, WEEKLY, ONE (1) Certified ORIGINAL for each week that work is in progress & SHOULD BE NUMBERED SEQUENTIALLY. If work is temporarily suspended, the last payroll should be appropriately marked to note that it would be the last payroll until work is resumed. Submitter shall make sure that each payroll is numbered and dated, includes the name of the Project on it as well as the name of the Subcontractor. It is important that submitter number ALL payrolls sequentially. This will keep Contractor from having to send "No Work" payrolls when no hours are logged for a pay period. It will also make it easier to track and communicate any inconsistencies. Submitter shall label each of the "Final Payrolls" from each contractor/subcontractor as such.

§ 8.8.2 The Contractor must submit one (1) certified originals of each weekly payroll within 7 days of the payment date of the payroll. The certification may be attached to the payroll or may be on the payroll itself. The Contractor will be considered responsible for submittal of payrolls and certifications for all their sub recipients on the project. The certification must be properly signed originals. Electronic submittal of certified payrolls is not permitted. Failure to submit these payrolls within the 7-day period will result in delay in submittal of pay applications. All certified payrolls must be certified by an officer of the company only. Contractor cannot certify several pay periods with only one payroll certification. This is unacceptable to the Department of Labor. Each certification must also be dated and signed to be valid. Owner would prefer that the certification be signed in a color other than black. Owner can accept Xeroxed payrolls; however, the certifications must each be signed with an original, live signature.

THE OWNER CANNOT ACCEPT COPIED SIGNATURES ON THE PAYROLL CERTIFICATIONS.

The employee's full name must be used. Addresses are not optional and MUST be listed on publicly funded projects such as this one. Social Security numbers are no longer allowed on certified payrolls, however, in lieu of the Social Security number; the contractor must assign the employee an identification number and place that identification number on the certified payroll. The identification number can be the last four digits of the employee's Social Security number. Employers (prime contractors and subcontractors) must maintain the current address and full SSN for each employee and must provide this information upon request to the contracting agency or other authorized representative responsible for labor standards compliance. All deductions must be clearly identified. Only approved deductions should be used in wage rate calculations as per the Code of Federal Regulations. The US Department of Labor Form LS-57 may be used, as this form complies with all code requirements. If any part of the payroll or payroll certification is illegible or not completely filled out, they will be returned to your office for correction and re-submission.

IMPORTANT NOTE: APPRENTICE CERTIFICATION LETTERS MUST ACCOMPANY CERTIFIED PAYROLLS THE 1ST TIME THEIR NAME APPEARS ON A CERTIFIED PAYROLL-IF NOT ATTACHED IT WILL DELAY APPROVAL OF CERTIFIED PAYROLL, AND THEREFORE PAY APPLICATION SUBMISSION.

§ 8.8.3 Unauthorized Alien Act Compliance and Federal Work Authorization Program Enrollment - No business or entity involved with this project shall employ an unauthorized alien to perform work within the state of Missouri. As a condition for the award of any contract or grant in excess of \$5,000.00, the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program (for example, the so called Federal E-Verify Program) with respect to the employees working in connection with the contracted services (see section 285.530 RSMo, enclosed in the laws section). To reaffirm - All Contractors are required to obtain and make available for inspection by the contracting public body from each subcontractor of any tier, an original sworn affidavit which affirms, under penalty of perjury, that the subcontractor is enrolled & actively participating in a federal work authorization program, that the subcontractor does not knowingly employ any person who is an Unauthorized Alien in connection with the contracted services, and the subcontractor's employees are lawfully present in the United States. The Contractor shall comply with all applicable federal, state & local labor laws & is not knowingly in violation of §RSMo 285.530(1) and shall not henceforth be in such violation. This shall appear in contracts between the general contractor and subcontractors and contracts between subcontractors of any tier.

§ 8.9 Liability and Indemnity:

§ 8.9.1 In no event shall the Owner be liable to the Contractor for special, indirect, or consequential damages, except those caused by the Owner's willful misconduct arising out of or in any way connected with a breach of this Contract. The maximum liability of the Owner shall be limited to the amount of money to be paid by the Owner under this Contract.

§ 8.9.2 The Contractor shall defend, indemnify, and hold harmless the Owner, its elected or appointed officials, Architect, Owner's Representative, and their respective consultants, insurers, agents, and employees, from and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims ner caused by, or allegedly caused by, or arising out of or connected with, this Contract, or the work of tract hereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including but not limited to claims for personal injuries, death, or property damage (other than the Work itself), regardless of whether the loss to be indemnified was caused in part by an indemnified person.

§ 8.9.3 The Contractor shall indemnify and hold the Owner harmless from all wages or overtime compensation due any employees in rendering services pursuant to the Contract or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law or any other federal or state law.

§ 8.9.4 By executing this Contract the Contractor represents that the Contractor has reviewed the Contract Documents and affirms that the Contractor is not aware of any material defects in said documents that might prevent the Contractor from completing the Work and the Project as promised herein. The Contractor accordingly waives any claim of such material defect against the Owner.

§ 8.9.5 Contractor stipulates that Owner is a political subdivision of the State of Missouri, and as such, enjoys immunities from suit and liability as provided by the Constitution and laws of the State of Missouri. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 8.9.6 The Contractor may not assign its responsibilities, duties, obligations and rights under this Agreement, without the express written consent of the Owner. This does not prevent Contractor from engaging subcontractors to perform various phases of the Project, but Contractor shall be fully responsible to Owner for the work, actions and omissions of all such subcontractors.

§ 8.9.7 This Agreement, in its entirety, shall be binding upon all the parties hereto, their respective successors, heirs, executors, administrators or assigns.

§ 8.9.8 No delay or omission by either of the parties hereto in exercising any right or power accruing upon the noncompliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

§ 8.9.9 Contractor's Responsibility for Subcontractors

The Contractor shall be as fully responsible to the Owner for the acts and omissions of its Subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work to bind all Subcontractors to Contractor by all the terms herein set forth, insofar as applicable to the work of Subcontractors, and to give Contractor the same power regarding termination of any subcontract as the Owner may exercise over the Contractor under any provisions of this Contract. Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the Owner or between any Subcontractors.

§ 8.9.10 The Contractor shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Contractor's employees, subcontractors, and all other persons carrying out the Contract.

§ 8.10 Conflicts:

§ 8.10.1 Contractor covenants that it has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services to be performed under this Contract. The Contractor further covenants that in its performance of this Contract no person having such an interest shall be employed.

§ 8.10.2 No salaried officer, employee or elected official of the Owner shall have a financial interest, direct or indirect, in this Contract. A violation of this provision renders the Contract void. Any federal regulations and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated.

§ 8.11 Assignment:

Contractor shall not assign or transfer any interest in this Contract (whether by assignment or novation), and shall not substitute any specific individuals and/or personnel qualifications without prior written consent of the Owner, except that claims for money due or to become due to the Contractor from the Owner under this Contract may be assigned to a bank, trust company, or other financial institution without such approval, but notice of such assignment or transfer shall be furnished in writing promptly to the Owner. Any such assignment is expressly subject to all rights and remedies of the Owner under this agreement, including the right to change or delete activities from the Contract or to terminate the same as provided herein, and no such assignment shall require the Owner to give any notice to any such assignee of any actions which the Owner may take under this agreement, though Owner will attempt to so notify any such assignee.

§ 8.12 General Independent Contractor Clause:

This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor will be an independent contractor and not the Owner's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. Subject to the provisions of this Contract, the Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the Owner, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Contractor and the Owner, and the Owner will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

§ 8.13 Other provisions:

Payments made to the Contractor by the Owner under this Contract shall be effected either by check, electronically or by wire transfer. Contractor shall provide the Owner with information necessary to facilitate same.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below. All Drawings and Specifications issued as part of the Construction Document Set issued by Choridini Architects. See attached Exhibit E for the complete listing.:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A201™–2017, General Conditions of the Contract for Construction

(Paragraphs deleted)

- .3 Drawings

Number	
2023.014	

Title	Date
Berkeley Firehouse #2-New Facility	2-01-2024

(Paragraph deleted)

- .4 Specifications

Section	
All	

Title	Date	Pages
Project Manual Berkeley Firehouse #2	2-01-2024	All

Init.

.5 Addenda, if any:

Number	Date	Pages
1	2-15-24	All
2	2-23-24	All
3	2-28-24	All

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.6 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

The Sustainability Plan:

Title	Date	Pages
--------------	-------------	--------------

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
-----------------	--------------	-------------	--------------

.7 Other documents, if any, listed below:

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

- Exhibit A: General Conditions AIA 201 2017
- Exhibit B: Contract Bid Forms and Bid Bond
- Exhibit C: Bid Scope of Work
- Exhibit D: Modification/Explanation of the Change Order Fee
- Exhibit E: Contract Drawing and Specification Log

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

OWNER *(Signature)*

Nathan Mai-Lombardo, City Manager
(Printed name and title)

CONTRACTOR *(Signature)*

Steve Layne, Principal
(Printed name and title)

Init.

User Notes:

Additions and Deletions Report for AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 18:26:10 ET on 03/14/2024.

PAGE 1

AGREEMENT made as of the 19 day of March in the year 2024

...

City of Berkeley MO
8425 Airport Road
Berkeley, MO 63134

...

LCS, LLC
1024 Cool Springs Industrial Drive
O'Fallon, MO 63366

...

City of Berkeley Fire House No. 2 Construction
9263 Natural Bridge Rd
St. Louis, MO 63134

...

Chiodini Architects
1401 S Brentwood Blvd.
St. Louis MO, 63144

PAGE 2

[] A date set forth in a notice to proceed issued by the Owner.

...

The date of commencement of the Work shall be fixed in a notice to proceed issued by the Owner or shall be the date of this Agreement, whichever is issued first.

...

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of ~~the entire Work~~ all work related to new construction, renovations, bid alternates, anticipated soil treatment/remediation identified on the bid form, and associated Site Work in phased substantial completion phases as follows:

PAGE 3

[] Not later than (—) 365 calendar days from the date of commencement of the Work.

[] By the following ~~date~~ dates:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following ~~date~~ dates.

...

The Contractor has contemplated all adverse weather within the project schedule and the Contract Time. Contractor accepts all risks associated with adverse weather. No time extensions will be granted related to claims of adverse weather conditions. No claims for extra costs will be granted related to adverse weather and/or taking action to deal with adverse weather and/or the effects of adverse weather. All provisions in the A101 and A201 otherwise respecting weather and that are inconsistent herewith are superseded by this provision, and are of no force and effect.

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5. Such damages shall be in addition to, and not in lieu of, any other rights or remedies Owner may have against Contractor for failure to timely achieve Substantial Completion, and damages for failure to achieve Substantial Completion and failure to achieve Final Completion may run concurrently. If the Work is not finally completed by the time stated in the Agreement, or as extended, no payments for Work completed beyond that time shall be made until the Project reaches Final Completion.

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum including Performance and Payment bonds shall be Three Million Four Hundred Ten Thousand One Hundred and Thirteen Dollars and 00/100 (\$ 3,410,113.00), subject to additions and deductions as provided in the Contract Documents.

...

Alternate #2: Trench Drains in Apparatus Bay 122 \$20,382.00

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. The Owner reserves the Right to accept the following alternates through the Change Order Process post execution of this Agreement for the amounts below. This Contractor must hold prices for these Alternates.

...

<u>Item</u>	<u>Price</u>	<u>Conditions for Acceptance</u>
<u>MOAM Tap Fee Allowance</u>	<u>\$25,000</u>	

...

Contractor understands that time is of the essence for the Owner as to the deadlines set forth in this Contract, that Owner will be harmed if Contractor fails to complete the Project in timely manner, that precise quantification of damages for such harm would be difficult, and the amounts specified herein as Liquidated Damages for delay are

reasonable. Contractor shall be responsible to maintain scheduled items for the Contractor's work as shown in the Contract Documents. In the event that the Contractor does not substantially complete the work by the required Substantial Completion date, the Contractor agrees to pay the Owner, or to deduct from the Contract Sum, not as a penalty, but as liquidated damages, the amount of \$1,000 for each and every calendar day for the first 30 days that Substantial Completion date is delayed. Thereafter, liquidated damages shall increase to \$2,000 per day. If Contractor shall neglect, refuse, or fail to complete the remaining work and closeout documents within Thirty (30) calendar days after Substantial Completion date (including any proper extension granted by the Owner), Contractor shall pay the Owner the stipulated sum of Five Hundred Dollars (\$500) for each day that expires after the time specified for completion & readiness for final payment.

:

...

§ 5.1.3 Provided that ~~an~~ a draft Application for Payment is received electronically by the Architect and the Owner's Representative not later than the 20th day of the invoicing month and subsequently recommended for approval, and the official Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the last day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than Thirty (30) days after the Architect receives the Application for Payment. Moreover, if Owner is entitled to deduct damages or amounts provided in the Contract Documents, including clean-up fees, then Owner shall be entitled to deduct such damages, amounts and fees at any time (Federal, state or local laws may require payment within a certain period of ~~time~~ time).

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This ~~schedule of values~~ schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. If Contractor fails or refuses to complete the Work, or has unsettled claims with Owner, any payment to Contractor shall be subject to deduction for such amounts as the Architect shall determine as the cost for completing incomplete Work and the value of unsettled claims.

PAGE 5

Applications for Payments shall be submitted on AIA Documents G702 and G703 or similar form. In the event of a dispute with regard to any item included in an Application for Payment, the Owner shall make payment for items not in dispute and shall have the right to withhold from payment the amount of such disputed item while the parties attempt to resolve the dispute in accordance with the dispute resolution provisions provided for in the Contract Documents.

Such applications shall include:

- Certified payrolls, An original accounting of all labor rates and hours of Work
- Invoices for all materials, rental equipment, and Contractor's statements.
- Copies of Contractor's daily log
- Compliance with prevailing wage laws as per annual wage order issued with this contract
- If invoicing for stored materials that have not been delivered to the project site, the following must be provided: proof of stored materials including certificate of insurance for facility where materials are stored, photographs of such materials, materials are labeled with signs indicating materials are "Property of City of Berkeley, Missouri" and copies of invoices for materials from the vendors/supplier.

...

- .1 That Take that portion of the Contract Sum properly allocable to completed Work; Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five Percent (5%) Pending final determination of cost to the Owner of Changes in the work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2017, General Conditions of the Contract for Construction;

- ~~.2 That~~ Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in ~~writing; and~~ writing, less retainage of Five Percent (5%);
- ~~.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.~~ Subtract the aggregate of previous payments made by the Owner; and
- ~~.4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2017.~~

~~§ 5.1.6.2 The amount of each progress payment shall then be reduced by:~~ progress payment amount determined in accordance with Section 5.1.6.1 shall be further modified under the following circumstances:

- ~~.1 The aggregate of any amounts previously paid by the Owner;~~
- ~~.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;~~
- ~~.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;~~ Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and,
- ~~.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017; and~~
- ~~.5 Retainage withheld pursuant to Section 5.1.7.2~~ Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-2017.

PAGE 6

5%

...

None

...

None

~~§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:~~

~~(Insert any other conditions for release of retainage upon Substantial Completion.)~~ Deleted

...

~~§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201-2017.~~ Deleted

...

At the time of this agreement, there are no known advance payments requested.

~~§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, Sum minus disputed sums and authorized deductions, shall be made by the Owner to the Contractor when~~ after:

...

- .2 a final Certificate for Payment has been issued by the Architect.
- .3 The Contractor has completed all punchlist items to the satisfaction of the Owner's Representative, Architect and Owner.
- .4 The Contractor has delivered all closeout Documentation required under the Contractor Documents, which include (1) original-final release of claims from Contractor (AIA G706 and G706A), in triplicate-operation and maintenance instructions/manuals; (1) original of final certified payrolls from Contractor and all lower tiered subcontractors, (1) original affidavit of compliance with prevailing wage laws from contractor and all lower tiered subcontractors, schedules, in triplicate equipment manuals, in triplicate marked up record documents, and in triplicate other closeout documents reasonably required by the Owner.

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The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker. Any claims or disputes between the parties of this agreement arising from or relating to this agreement or breach thereof, shall, as a condition prior to binding litigation, shall be submitted to non-binding mediation. The mediator's fees and expenses and any costs associated with the mediation shall be borne equally by both parties. Each party shall be responsible for paying its own costs, expenses, and attorney fees related to participating in the mediation. Disputes under this agreement shall be exclusively litigated in the Circuit Court for St. Louis County, Missouri.

...

Other (*Specify*)

Mediated as provided in Section 15.3 thereof. If either party so desires, or if mediation fails to resolve the dispute, the dispute may be resolved by litigation.

...

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Contractor a termination fee as follows: (*Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.*)

Deleted

...

Navigate Building Solutions, LLC
8419 Manchester Road
Brentwood, MO 63144

The Owner has retained Navigate Building Solutions, LLC as its Owner's Representative for the project. The Contractor shall cooperate with the Owner's Representative to the same extent as the Owner.

PAGE 8

Steve Layne, Principal / Project Manager
(636) 734-6968

...

1024 Cool Springs Industrial Dr.
O'Fallon, MO 63366

...

~~§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.~~

§ 8.3.3 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

~~§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™ 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents. Contractor shall secure and maintain at its own cost and expense and throughout the duration of this Contract and until the work is completed and accepted by the Owner, insurance of such types and in such amounts as may be necessary to protect it and the interests of the Owner against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the Owner. Bid package requires AM Best rating of A-IX or higher. Regardless of such approval, it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.~~

Certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the Owner within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work. Work may not proceed until proof of all required insurance has been provided to the Owner. All insurance policies shall include an ISO Additional Insured Endorsement (CG 20 10 and CG 20 37 2004 editions or equivalent) listing the Owner and the Owner's Representative as additional insureds on a primary basis with owner and/or construction manager insurance excess and not contributory, general liability and auto to contain waiver of subrogation in favor of Owner and its officers, directors and employees, and an ISO Notice of Cancellation/Modification Endorsement providing thirty (30) days written notice to be given by the insurance company to the Owner prior to modification or cancellation of such insurance.

Such notices shall be sent via email to the Owner's Representative AND the Owner directly.

~~§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™ 2017 Exhibit A, and elsewhere in the Contract Documents. Minimum Coverages~~

The minimum coverage for the insurance referred to herein shall be in accordance with the requirements established below:

- a. Workers' Compensation: Statutory coverage per R.S.Mo. 287.010 et seq.; Employer's Liability: \$1,000,000.00 for bodily injury each accident or disease, each employee for injury by disease.
- b. Commercial General Liability Insurance: ISO occurrence form CG00010798 or later edition or equivalent substitute form. Including coverage for Premises, Operations Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to Bodily Injury and Property Damage on an "Occurrence Form Basis" with limits of Three Million Dollars (\$3,000,000.00) for all claims arising out of a single accident or occurrence, Three Million Dollars (\$3,000,000.00) for products/completed operations and One Million Dollars (\$1,000,000.00) for any one person in a single accident or occurrence/advertising injury. Aggregate limits to apply separately to the Project other than completed operations hazards. ISO CG 25 03 endorsement for general aggregate limit of Three Million Dollars (\$3,000,000.00).
- c. Automobile Liability Insurance: ISO CA0001, CA0002, CA0005, CA0020 or equivalent. Covering Bodily Injury and Property Damage for owned, non- owned and hired vehicles with limits of Three Million Dollars (\$3,000,000.00) for all claims arising out of a single accident or occurrence.
- d. Owner's and Contractor's Protective Liability Insurance, to protect the Owner, its agents, servants and employees from claims which may arise from the performance of this Contract, with limits of Three Million Dollars (\$3,000,000.00) for all claims arising out of a single accident or occurrence

and Five Hundred Thousand (\$500,000.00) for any one person in a single accident or occurrence.

The Owner's and Contractor's Protective Liability Insurance must:

- (1) be a separate policy with the named insured being the Owner;
 - (2) be with the same insurance company with which the Contractor carries its Commercial General Liability Insurance and Automobile Liability Insurance; and
 - (3) contain an endorsement that disclaims coverage for any claim barred by the doctrines of sovereign immunity or official immunity, except attorney's fees and other litigation costs incurred in defending a claim. Nothing contained in this policy (or this endorsement thereto) shall constitute any waiver of whatever kind of these defenses or sovereign immunity or official immunity for any monetary amount whatsoever.
- e. All-Risk Builders Risk Insurance (required by the Owner): Unless specifically authorized by the Owner, the amount of such insurance shall not be less than the total contract price. The policy shall name as insured the Contractor and the Owner.
- f. Umbrella Excess: Two Million Dollars (\$2,000,000) per occurrence and aggregate over employer's liability, general liability, and auto liability, with "follow-form" of underlying policies.

§ 8.5.2.1 Subcontractors

The Contractor shall require all subcontractors to procure and maintain all insurance required in this section and in like amounts and shall provide evidence of such insurance, with the following exceptions:

- a. Subcontractors are not required to provide All-Risk Builders Risk Insurance;
- b. Subcontractors with an initial contract amount less than \$100,000.00 may provide liability coverage limits of \$1,000,000.00 in addition to a \$1,000,000.00 umbrella policy;
- c. Subcontractors need not carry OCPL coverage if contractor's coverage is inclusive;
- d. The Contractor and/or subcontractor shall furnish the Owner prior to beginning any work satisfactory proof of carriage of all the insurance required by this Contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the Owner.

§ 8.5.3 Pending Legislation

If the scope or extent of the Owner's tort liability as a governmental entity as described in Section 537.600 through 537.650 R.S.Mo. is broadened or increased during the term of this agreement by legislative or judicial action, the Owner re Contractor, upon 10 days written notice, to execute a contract addendum whereby the Contractor agrees to a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as may require to protect the Owner from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

§ 8.5.3 Performance and Payment Bonds

The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the Owner and on the forms approved by the Owner. Each bond shall be in the full amount of the parties' contract and shall be conditioned upon the full and faithful performance of all major terms and conditions of the contract and the payment of all labor and material suppliers. If at any time after the execution of a contract and the surety bonds (in the forms attached hereto) the Owner shall deem any bond surety to be unsatisfactory, or if for any reason, a bond ceases to be adequate to cover the performance of the work or the payment of labor and materials, the Contractor shall, at its expense and within five (5) days after the receipt of notice from the Owner to do so, furnish an additional bond or bonds, in such form and amount, and with such surety or sureties as shall be satisfactory to the Owner. In such event no further payment to the Contractor shall be deemed to be due under this contract until such

new or additional security for the faithful performance of the work and the payment of labor and material suppliers shall be furnished in a manner and form satisfactory to the Owner. The corporate surety on any performance or payment bond must be licensed by the State of Missouri and must be listed in United States Treasury Circular 570, and the bonds shall be accompanied by current powers of attorney, on a form acceptable to Owner.

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2017. (State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2017.)

~~§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:~~

~~(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)~~

Deleted

§ 8.7 Other provisions: Compliance with Laws:

§ 8.7.1 The Contractor shall comply with all local, state, and federal laws, rules, and regulations applicable to the provision of services and products under the Contract, including but not limited to: the Americans with Disabilities Act, employment discrimination laws, wage and hour laws (including as required by Sections 290.210 et seq. R.S.Mo.), the transient employer financial assurance law (Sections 285.230 et seq. RSMo.), and public contracting laws. The Contractor affirmatively states that payment of all local, state, and federal taxes and assessments owed by the Contractor is either current or under lawful protest with the applicable taxing jurisdiction.

§ 8.7.2 Not less than the prevailing hourly rate of wages specified under Section 290.210-290.340 of the Revised Missouri Statutes and set out in the Wage Determination shall be paid to all workers performing Work under this Contract. The Contractor shall forfeit as provided in Section 290.250 of the Revised Missouri Statutes as a penalty to the Owner the sum of One Hundred Dollars (\$100.00) for each worker employed, for each calendar day, or portion thereof, that such worker is paid less than the prevailing rate for any work done under said Contract by the Contractor or by any of its Subcontractors.

§ 8.7.3 The Contractor and all subcontractors to the contract must require all on-site employees to complete the ten-hour safety training program required under Section 292.675, RSMo, if they have not previously completed the program and have documentation of having done so. The Contractor will forfeit a penalty to the Owner of \$2500 plus an additional \$100 for each employee employed by the Contractor or Subcontractor, for the calendar day, or portion thereof, such employee is employed without the required training.

§ 8.7.4 Every transient employer, as defined in Section 285.230, RsMo, must post in a prominent and easily accessible place at the work site a clearly legible copy of the following: (1) The notice of registration of employer withholding issued to such transient employer by the director of revenue; (2) Proof of coverage for workers' compensation insurance or self-insurance signed by the transient employer and verified by the department of revenue through the records of the division of workers' compensation; and (3) The notice of registration for unemployment insurance issued to such transient employer by the division of employment security. Any transient employer failing to comply with these requirements shall, under section 285.234, RsMo, be liable for a penalty of Five Hundred Dollars (\$500.00) per day until the notices required by this section are posted as required by that statute.

§ 8.8 Certified Payroll:

§ 8.8.1 The Contractor & each Subcontractor are required to submit, WEEKLY, ONE (1) Certified ORIGINAL for each week that work is in progress & SHOULD BE NUMBERED SEQUENTIALLY. If work is temporarily suspended, the last payroll should be appropriately marked to note that it would be the last payroll until work is resumed. Submitter shall make sure that each payroll is numbered and dated, includes the name of the Project on it as well as the name of the Subcontractor. It is important that submitter number ALL payrolls sequentially. This will keep Contractor from having to send "No Work" payrolls when no hours are logged for a pay period. It will also make it

easier to track and communicate any inconsistencies. Submitter shall label each of the "Final Payrolls" from each contractor/subcontractor as such.

§ 8.8.2 The Contractor must submit one (1) certified originals of each weekly payroll within 7 days of the payment date of the payroll. The certification may be attached to the payroll or may be on the payroll itself. The Contractor will be considered responsible for submittal of payrolls and certifications for all their sub recipients on the project. The certification must be properly signed originals. Electronic submittal of certified payrolls is not permitted. Failure to submit these payrolls within the 7-day period will result in delay in submittal of pay applications. All certified payrolls must be certified by an officer of the company only. Contractor cannot certify several pay periods with only one payroll certification. This is unacceptable to the Department of Labor. Each certification must also be dated and signed to be valid. Owner would prefer that the certification be signed in a color other than black. Owner can accept Xeroxed payrolls; however, the certifications must each be signed with an original, live signature.

THE OWNER CANNOT ACCEPT COPIED SIGNATURES ON THE PAYROLL CERTIFICATIONS.

The employee's full name must be used. Addresses are not optional and MUST be listed on publicly funded projects such as this one. Social Security numbers are no longer allowed on certified payrolls, however, in lieu of the Social Security number; the contractor must assign the employee an identification number and place that identification number on the certified payroll. The identification number can be the last four digits of the employee's Social Security number. Employers (prime contractors and subcontractors) must maintain the current address and full SSN for each employee and must provide this information upon request to the contracting agency or other authorized representative responsible for labor standards compliance. All deductions must be clearly identified. Only approved deductions should be used in wage rate calculations as per the Code of Federal Regulations. The US Department of Labor Form LS-57 may be used, as this form complies with all code requirements. If any part of the payroll or payroll certification is illegible or not completely filled out, they will be returned to your office for correction and re-submission.

IMPORTANT NOTE: APPRENTICE CERTIFICATION LETTERS MUST ACCOMPANY CERTIFIED PAYROLLS THE 1ST TIME THEIR NAME APPEARS ON A CERTIFIED PAYROLL-IF NOT ATTACHED IT WILL DELAY APPROVAL OF CERTIFIED PAYROLL, AND THEREFORE PAY APPLICATION SUBMISSION.

§ 8.8.3 Unauthorized Alien Act Compliance and Federal Work Authorization Program Enrollment - No business or entity involved with this project shall employ an unauthorized alien to perform work within the state of Missouri. As a condition for the award of any contract or grant in excess of \$5,000.00, the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program (for example, the so called Federal E-Verify Program) with respect to the employees working in connection with the contracted services (see section 285.530 RSMo, enclosed in the laws section).To reaffirm - All Contractors are required to obtain and make available for inspection by the contracting public body from each subcontractor of any tier, an original sworn affidavit which affirms, under penalty of perjury, that the subcontractor is enrolled & actively participating in a federal work authorization program, that the subcontractor does not knowingly employ any person who is an Unauthorized Alien in connection with the contracted services, and the subcontractor's employees are lawfully present in the United States. The Contractor shall comply with all applicable federal, state & local labor laws & is not knowingly in violation of §RSMo 285.530(1) and shall not henceforth be in such violation. This shall appear in contracts between the general contractor and subcontractors and contracts between subcontractors of any tier.

§ 8.9 Liability and Indemnity:

§ 8.9.1 In no event shall the Owner be liable to the Contractor for special, indirect, or consequential damages, except those caused by the Owner's willful misconduct arising out of or in any way connected with a breach of this Contract. The maximum liability of the Owner shall be limited to the amount of money to be paid by the Owner under this Contract.

§ 8.9.2 The Contractor shall defend, indemnify, and hold harmless the Owner, its elected or appointed officials, Architect, Owner's Representative, and their respective consultants, insurers, agents, and employees, from and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims ner caused by, or allegedly caused by, or arising out of or connected with, this Contract, or the work of tract hereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including but not limited to claims for personal injuries, death, or property damage (other than the Work itself), regardless of whether the loss to be indemnified was caused in part by an indemnified person.

§ 8.9.3 The Contractor shall indemnify and hold the Owner harmless from all wages or overtime compensation due any employees in rendering services pursuant to the Contract or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law or any other federal or state law.

§ 8.9.4 By executing this Contract the Contractor represents that the Contractor has reviewed the Contract Documents and affirms that the Contractor is not aware of any material defects in said documents that might prevent the Contractor from completing the Work and the Project as promised herein. The Contractor accordingly waives any claim of such material defect against the Owner.

§ 8.9.5 Contractor stipulates that Owner is a political subdivision of the State of Missouri, and as such, enjoys immunities from suit and liability as provided by the Constitution and laws of the State of Missouri. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 8.9.6 The Contractor may not assign its responsibilities, duties, obligations and rights under this Agreement, without the express written consent of the Owner. This does not prevent Contractor from engaging subcontractors to perform various phases of the Project, but Contractor shall be fully responsible to Owner for the work, actions and omissions of all such subcontractors.

§ 8.9.7 This Agreement, in its entirety, shall be binding upon all the parties hereto, their respective successors, heirs, executors, administrators or assigns.

§ 8.9.8 No delay or omission by either of the parties hereto in exercising any right or power accruing upon the noncompliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

§ 8.9.9 Contractor's Responsibility for Subcontractors

The Contractor shall be as fully responsible to the Owner for the acts and omissions of its Subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work to bind all Subcontractors to Contractor by all the terms herein set forth, insofar as applicable to the work of Subcontractors, and to give Contractor the same power regarding termination of any subcontract as the Owner may exercise over the Contractor under any provisions of this Contract. Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the Owner or between any Subcontractors.

§ 8.9.10 The Contractor shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Contractor's employees, subcontractors, and all other persons carrying out the Contract.

§ 8.10 Conflicts:

§ 8.10.1 Contractor covenants that it has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services to be performed under this Contract. The Contractor further covenants that in its performance of this Contract no person having such an interest shall be employed.

§ 8.10.2 No salaried officer, employee or elected official of the Owner shall have a financial interest, direct or indirect, in this Contract. A violation of this provision renders the Contract void. Any federal regulations and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated.

§ 8.11 Assignment:

Contractor shall not assign or transfer any interest in this Contract (whether by assignment or novation), and shall not substitute any specific individuals and/or personnel qualifications without prior written consent of the Owner, except

that claims for money due or to become due to the Contractor from the Owner under this Contract may be assigned to a bank, trust company, or other financial institution without such approval, but notice of such assignment or transfer shall be furnished in writing promptly to the Owner. Any such assignment is expressly subject to all rights and remedies of the Owner under this agreement, including the right to change or delete activities from the Contract or to terminate the same as provided herein, and no such assignment shall require the Owner to give any notice to any such assignee of any actions which the Owner may take under this agreement, though Owner will attempt to so notify any such assignee.

§ 8.12 General Independent Contractor Clause:

This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor will be an independent contractor and not the Owner's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. Subject to the provisions of this Contract, the Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the Owner, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Contractor and the Owner, and the Owner will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

§ 8.13 Other provisions:

Payments made to the Contractor by the Owner under this Contract shall be effected either by check, electronically or by wire transfer. Contractor shall provide the Owner with information necessary to facilitate same.

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§ 9.1 This Agreement is comprised of the following documents:The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below. All Drawings and Specifications issued as part of the Construction Document Set issued by Choridini Architects. See attached Exhibit E for the complete listing.:

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- ~~.2~~ AIA Document A101™ 2017, Exhibit A, Insurance and Bonds
- ~~.3~~ AIA Document A201™ 2017, General Conditions of the Contract for Construction
- ~~.4~~ AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

~~.5~~ Drawings

~~.3~~ Drawings

...

2023.014

Berkeley Firehouse
#2-New Facility

2-01-2024

~~.6~~ Specifications

~~.4~~ Specifications

...

All

Project Manual Berkeley
Firehouse #2

2-01-2024

All

~~.7~~ .5 Addenda, if any:

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1

2-15-24

All

2

2-23-24

All

3

2-28-24

All

...

~~.8~~ .6 Other Exhibits:

...

~~.9~~ .7 Other documents, if any, listed below:

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

Exhibit A: General Conditions AIA 201 2017

Exhibit B: Contract Bid Forms and Bid Bond

Exhibit C: Bid Scope of Work

Exhibit D: Modification/Explanation of the Change Order Fee

Exhibit E: Contract Drawing and Specification Log

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Nathan Mai-Lombardo, City Manager

Steve Layne, Principal

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Jennifer N Kissinger, Director NAVIGATE Building Solutions, LLC, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 18:26:10 ET on 03/14/2024 under Order No. 4104250575 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)