



# AIA® Document A102™ – 2017

## **Standard Form of Agreement Between Owner and Contractor** where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

### **CONTRACT 21-044**

**AGREEMENT** made effective as of the 24th day of March in the year 2022  
(In words, indicate day, month and year.)

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

Westlawn Renaissance VII LLC  
c/o Housing Authority of the City of Milwaukee  
809 North Broadway, 3rd Floor  
Milwaukee, WI 53202

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

Travaux Inc.  
c/o Housing Authority of the City of Milwaukee  
809 North Broadway, 3rd Floor  
Milwaukee, WI 53202

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

Westlawn Renaissance VII  
Building 3.4 located at 6014 West Sheridan Avenue, Milwaukee, WI 53218  
Phase 4A Townhomes located in the area bounded by West Silver Spring Drive to the north, West Birch Avenue to the south, North 66th Street to the east, and North 68th Street to the west  
Construction of: 1 apartment building of 18 units and related site improvements; 79 units within 31 townhome buildings and related site improvements

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

Torti Gallas and Partners Inc.  
1923 Vermont Avenue, NW  
Grimke School, 2nd Floor  
Washington, DC 20001

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

Warren B. Jones  
Travaux Inc.  
401 East Ogden Avenue  
Milwaukee, WI 53202

The Architect's Designated Representative:

### **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 A102™–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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**User Notes:**

(1130588008)

*(Name, address and other information)*

William Fears  
Torti Gallas and Partners Inc.  
1923 Vermont Avenue, NW  
Grimke School, 2nd Floor  
Washington, DC 20001

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

Willie L. Hines, Jr.  
Westlawn Renaissance V LLC  
c/o Housing Authority of the City of Milwaukee  
809 North Broadway, 3rd Floor  
Milwaukee, WI 53202

The Owner and Contractor agree as follows.

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### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), HUD 5370 General Conditions of the Contract for Construction 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. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. The terms of AIA Document A201™–2017, General Conditions of the Contract for Construction (sometimes referred to herein as the "General Conditions") and the terms of HUD 5370 General Conditions of the Contract for Construction shall be construed and interpreted to the full extent possible to give effect to all such terms. In the event of any conflict between the terms, the terms of HUD 5370 General Conditions of the Contract for Construction shall govern and control. This Agreement may be amended only by written instrument signed by both the Owner and Contractor. An enumeration of the Contract Documents, other than a Modification, appears in Article 16.

### ARTICLE 2 THE WORK OF THIS CONTRACT

§ 2.1 The Contractor shall perform the services described in this Article. The Contractor has identified a representative above authorized to act on behalf of the Contractor with respect to the Project.

## **§ 2.1.2 General**

**§ 2.1.2.1** For purposes of Section 8.1.2 of the General Conditions, the date of means of the Work shall mean the date of commencement of the Construction Phase. The Construction Phase shall commence upon the Owner's issuance of a Notice to Proceed.

**§ 2.1.2.2** The Contractor shall have the control over and charge of and shall be responsible for construction means, methods, techniques, sequences and procedures, and the safety precautions and programs in connection with the Work. The Contractor shall be responsible for its and its Subcontractor's failure to carry out the Work in accordance with the Contract Documents. The Contractor shall coordinate the sequence of the construction and the responsibilities of the Subcontractors and be responsible for the acts and omissions of the Subcontractors and their agents and employees.

**§ 2.1.2.3** The Contractor shall monitor the Work of the Contractors, Subcontractors and suppliers, and coordinate their Work with the activities and responsibilities of the Architect, the Contractor, and the Owner to complete the Project in accordance with the Owner's objectives of cost, time and quality.

**§ 2.1.2.4** The Contractor shall maintain a competent staff at the Project Site to coordinate and provide general direction of the Work and facilitate progress of the Contractors, Subcontractors and suppliers on the Project.

**§ 2.1.2.5** The Contractor shall establish procedures for coordination among the Architect, Contractors, Subcontractors and suppliers and the Contractor with respect to all aspects of the Project and shall implement such procedures.

**§ 2.1.2.6** The Contractor shall determine the adequacy of the Contractors', Subcontractors' and suppliers' personnel and equipment and the availability of materials and supplies to meet the schedule. The Contractor shall take appropriate action when requirements of a contract are not being met.

**§ 2.1.2.7** If needed, the Contractor shall provide temporary construction office facility for use by Owner, Architect, and Contractor at the Project site.

**§ 2.1.2.8** The Contractor shall manage the mobilization activities with the Subcontractors.

**§ 2.1.2.9** The Contractor shall arrange for the delivery, storage, protection, and security of Owner-purchased materials, systems, and equipment that (a) are obtained or acquired through the Contractor or the Contractor's purchasing entity, or (b) are items to be installed by the Contractor.

**§ 2.1.2.10** The Contractor shall provide assignment of responsibilities for temporary project facilities and equipment, materials and services for common use of the Contractor and the Subcontractors.

## **§ 2.2.1 Administration**

**§ 2.2.1.1** Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or by other appropriate agreements with the Contractor. The Owner may designate specific persons from whom, or entities from which, the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Owner and Architect. The Owner shall then determine, with the advice of the Contractor and the Architect, which bids will be accepted. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection. The Contractor shall be responsible for the proper and complete performance of the Work in accordance with the terms and provisions of the Contract Documents, whether performed by the Contractor or by Subcontractors.

**§ 2.2.1.2** Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, the Contractor shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Contractor in Article 12.

**§ 2.2.1.3** Intentionally omitted..

§ 2.2.1.5 The Contractor shall schedule and conduct meetings at which the Owner, Architect, Contractor and appropriate Subcontractors can discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Contractor shall prepare and promptly distribute minutes to the Owner and Architect.

§ 2.2.1.6 Upon the execution of this Agreement the Contractor shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of the General Conditions.

§ 2.2.1.7 The Contractor shall record the progress of the Project. On a quarterly basis, or otherwise as agreed to by the Owner, the Contractor shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Contractor shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, Work accomplished, number of workers on site, Subcontractors working on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 2.2.1.8 The Contractor shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Contractor shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its quarterly reports to the Owner and Architect, in accordance with Section 2.2.1.7 above.

§ 2.2.1.9 The Contractor shall receive, review and approve all certificates of insurance, lien waivers and similar information and shall forward copies, if requested, to the Architect and the Owner.

§ 2.2.1.10 The Contractor shall develop and implement a system for the preparation, review and processing of change orders, and shall recommend necessary or desirable changes to the Owner.

§ 2.2.1.11 In collaboration with the Architect, the Contractor shall establish and implement procedures for expediting the processing and approval of shop drawings and samples.

§ 2.2.1.12 The Contractor shall work with the Architect to prepare a punch-list of defective or incomplete work, and shall coordinate completion of punch-list items.

§ 2.2.1.13 The Contractor shall secure and transmit to the Owner all required warranties and lien waivers and turn over to the Owner all keys, manuals, record drawings and maintenance stocks. The Contractor shall coordinate the collection of the Contractor and Subcontractor field-annotated record drawings and shall mark up a consolidated print for the Architect's use.

§ 2.2.1.14 The Contractor shall prepare and deliver to the Owner a final accounting for all costs incurred.

### ARTICLE 3 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established with the Owner by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to use the Contractor's best efforts to perform the Work in an expeditious and economical manner consistent with the Owner's interests. All parties shall endeavor to promote harmony and cooperation among the Owner, Architect, Contractor and other persons and entities employed by the Owner for the Project.

### ARTICLE 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 4.1 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:

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*(Insert a date or a means to determine the date of commencement of the Work.)*

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

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

#### § 4.3 Substantial Completion

§ 4.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

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

☐ Not later than ( ) calendar days from the date of commencement of the Work.

☒ By the following date: July 30, 2023 for Building 3.4; December 31, 2023 for Phase 4A Townhomes

§ 4.3.2 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
NONE	

§ 4.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 4.3, liquidated damages, if any, shall be assessed as set forth in Section 5.1.6.

### ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 5.1 For the Contractor's performance of the Work as described in Article 2, the Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Contractor's Fee.

§ 5.1.1 The Contractor's Fee:

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

A lump sum of Three Hundred Nine Thousand, Eight Hundred Five and 00/100 Dollars (\$309,805.00) for Building 3.4; and a lump sum of One Million, One Hundred Forty-Six Thousand, Four Hundred Sixty and 00/100 Dollars (\$1,146,460.00) for Phase 4A Townhomes; or One Million, Four Hundred Fifty-Six Thousand, Two Hundred Sixty-Five and 00/100 Dollars (\$1,456,265.00) total, exclusive of Architect's fees and Owner's FF&E. Owner FF&E if incorporated into the budget as an allowance would be considered a portion of the Cost of Work for purposes of calculating the fee.

§ 5.1.2 Intentionally omitted.

§ 5.1.3 Intentionally omitted.

§ 5.1.4 Rental rates for Contractor-owned equipment shall not exceed eighty-five percent (85 %) of the rental rates listed in the latest edition of the Associated Equipment Distributors "green book" (a/k/a AED Green Book) of nationally averaged rates. Charges for equipment rented from third parties shall be the actual rental rates, but shall in no even exceed local market rates.

§ 5.1.5 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  
NONE

Units and Limitations

Price Per Unit (\$0.00)

**§ 5.1.6**

*(Paragraphs deleted)*

Intentionally omitted.

**§ 5.1.7 Other:**

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

**§ 5.2 Guaranteed Maximum Price**

**§ 5.2.1** The Contract Sum is guaranteed by the Contractor not to exceed Six Million, Nine Hundred Thirty-Nine Thousand, Six Hundred Forty-Two and 00/100 Dollars (\$6,939,642.00) for Building 3.4, and Twenty-Five Million, Six Hundred Eighty Thousand, Six Hundred Ninety-Three and 00/100 Dollars (\$25,680,693.00) for Phase 4A Townhomes, or Thirty-Two Million, Six Hundred Twenty Thousand, Three Hundred Thirty-Five and 00/100 Dollars (\$32,620,335.00) Total, subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner. Attached as Exhibit A is the Schedule of Values allocating the entire amount of the Guaranteed Maximum Price..

To the extent the actual sum of the Cost of the Work and the Contractor's Fee are less than the final adjusted Guaranteed Maximum Price, such difference ("Savings") shall be shared between Owner and Contractor with Owner receiving 50% of the Savings and Contractor receiving 50% of the Savings. Contractor's portion of the Savings shall be paid at the time final payment is due pursuant to the terms of the Contract Documents.

**§ 5.2.2 Alternates**

**§ 5.2.2.1** Alternates, if any, included in the Guaranteed Maximum Price:

*(Row deleted)*

NONE

**§ 5.2.2.2** 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.

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

*(Row deleted)*

NONE

**§ 5.2.3** Allowances, if any, included in the Guaranteed Maximum Price:

*(Identify each allowance.)*

*(Row deleted)*

Building 3.4	
Performance Bond/Liability Insurance	\$250,000.00
Asphalt	\$20,000.00
Site Concrete	\$21,000.00
Curb and Gutter	\$10,000.00
Landscaping	\$45,000.00

Phase 4A Townhomes	
Performance Bond/Liability Insurance	\$200,000.00
Testing and Surveying	\$60,000.00
Landscaping	\$543,072.00

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§ 5.2.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:  
(Identify each assumption.)

The following items are not included in the Guaranteed Maximum Price:

Building 3.4  
Poor Soils  
Owner FF&E  
Interior/Exterior Signage  
Interior Cabling / IT Equipment / Antenna  
Permit Cost  
WE Utility Permit Cost  
Wire Lockers (not shown on drawings or specifications)  
Mail Boxes (not shown on drawings or specifications)  
Trash Compactor (not shown on drawings or specifications)  
Winter Conditions  
Waterproofing  
Spreading of Topsoil (horizontal utility package)  
Material Cost Increases

Phase 4A Townhomes  
Poor Soils  
Owner FF&E  
Signage  
Cabling  
Permit Cost  
WE Utility Permit Cost  
Underground Utilities  
Mail Boxes (none shown)  
Asphalt Paving  
Winter Conditions  
Spreading of Topsoil (horizontal utility package)  
Material Cost Increases

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

§ 5.2.6 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 5.2.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 5.2.4 and the revised Contract Documents.

## ARTICLE 6 CHANGES IN THE WORK

§ 6.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Architect may make minor changes in the Work as provided in Article 7 of the General Conditions and any other applicable terms. The Contractor shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.2 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 5, 7 and 8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.



§ 6.3 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of the General Conditions and the term "costs" as used in Section 7.3.4 of the General Conditions shall have the meanings assigned to them in the General Conditions and shall not be modified by Sections 5.1 and 5.2, Sections 7.1 through 7.7, and Section 7.8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.4 If no specific provision is made in Article 5 for adjustment of the Contractor's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Article 5 will cause substantial inequity to the Owner or Contractor, the Contractor's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

## **ARTICLE 7 COSTS TO BE REIMBURSED**

### **§ 7.1 Cost of the Work**

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work and shall include only the items set forth in this Article 7. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Article 7.

§ 7.1.2 Where any cost is subject to the Owner's prior approval, the Contractor shall obtain such approval prior to incurring the cost.

§ 7.1.3 Intentionally omitted.

### **§ 7.2 Labor Costs**

§ 7.2.1 Intentionally omitted.

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

#### **§ 7.2.2.1**

*(Paragraphs deleted)*  
Intentionally omitted.

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

§ 7.2.4 Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments, and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.2 through 7.2.3.

§ 7.2.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Contractor or paid to any Subcontractor or vendor, with the Owner's prior approval.

### **§ 7.3 Subcontract Costs**

Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts.

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

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

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion

of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

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

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

**§ 7.5.2** Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Contractor at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal. The total rental cost of any Contractor-owned equipment and quantities of equipment shall be subject to Owner's prior approval.

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

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

**§ 7.5.5** That portion of the reasonable expenses of the Contractor's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

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

#### **§ 7.6 Miscellaneous Costs**

**§ 7.6.1** Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval

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

**§ 7.6.1.2** Intentionally omitted.

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

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

**§ 7.6.4** Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13.4.3 of AIA Document A201-2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

**§ 7.6.5** Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents and the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents provided Contractor has given Owner notice and opportunity to defend; payments made in accordance with legal judgments against the Contractor resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Contractor's Fee or subject to the Guaranteed Maximum Price. However, such royalties, fees and costs are not part of the Cost of Work if Contractor knows that the required design process, or product is, or could be, an infringement of a copyright or patent and the Contractor fails to promptly furnish such information to the Architect.

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§ 7.6.5.1 Intentionally omitted.

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

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

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

§ 7.6.9 Subject to the Owner's prior written approval, expenses incurred in accordance with the Contractor's standard written personnel policy for relocation and temporary living allowances of the Contractor's personnel required for the Work.

§ 7.6.10 Costs of additional services or Work required in connection with repairs, removal or replacements necessitated by defects in materials and workmanship with the Owner's prior written approval, which shall not be unreasonably withheld.

§ 7.6.11 The cost of performing warranty work with the Owner's prior written approval, which shall not be unreasonably withheld.

## § 7.7 Other Costs and Emergencies

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

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10.4 of AIA Document A201-2017.

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

## § 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership or management with the Contractor; (2) any entity in which any stockholder in, or management employee of, the Contractor holds an equity interest in excess of ten percent in the aggregate; or (3) any entity which has the right to control the business or affairs of the Contractor. The term "Related Party" includes any member of the immediate family of any person identified above.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction in writing, the Contractor shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

## ARTICLE 8 COSTS NOT TO BE REIMBURSED

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

- .1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 15;
- .2 Expenses of the Contractor's principal office and offices other than the site office;

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- .3 Contractor and Subcontractors overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .4 The Contractor's and Subcontractor's capital expenses, including interest on the Contractor's and Subcontractor's capital employed for the Work;
- .5 Except as provided in Section 7.7.3 of this Agreement, costs due to the acts or omissions of the Contractor or Subcontractors, or failure of the Contractor, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill an obligation set forth in the Contract Documents;
- .6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.
- .8 Intentionally omitted.
- .9 Rental costs of machinery and equipment, except as specifically provided herein;
- .10 Costs of removing condemned or rejected materials, resulting from the acts or omissions of the Contractor or Subcontractor;
- .11 Costs in excess of the normal costs for permits and licenses to the extent such costs resulted from Contractor's or Subcontractor's failure to timely obtain permits and licenses required to be obtained by Contractor or Subcontractor;
- .12 Intentionally deleted;
- .13 Costs incurred as a result of any inspection or test which reveals nonconforming or defective work not performed in accordance with the Contract Documents;
- .14 The cost of fines and penalties, including interest thereon, assessed against Contractor or Subcontractor by any federal, state or local government or quasi-governmental authorities;
- .15 Any cost which would cause the Guaranteed Maximum Price to be exceeded, in which case the Contractor shall pay all such costs and indemnify and hold harmless Owner therefrom;
- .16 The cost of bonus and incentive plans for Contractor's executives.

## ARTICLE 9 DISCOUNTS, REBATES AND REFUNDS

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

§ 9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

## ARTICLE 10 SUBCONTRACTS AND OTHER AGREEMENTS

§ 10.1 Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or other appropriate agreements with the Contractor. The Owner may designate specific persons from whom, or entities from which, the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Contractor shall deliver such bids to the Architect and Owner with an indication as to which bids the Contractor intends to accept. The Owner then has the right to review the Contractor's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 10.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Contractor of its responsibility to perform the Work in accordance with the Contract Documents. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

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

§ 10.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Contractor shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Contractor in Article 11.

*(Paragraphs deleted)*

#### **ARTICLE 11 ACCOUNTING RECORDS; RIGHT TO AUDIT**

11.1 Contractor agrees to make, keep and maintain in accordance with the Owner's financial reporting requirements and generally accepted accounting principles and practices consistently applied, complete books, records, invoices and records of payments relating to the Work while it is being performed and for a period of seven (7) years following completion of the Work, or such longer time as required based on the Owner's funding requirements. Contractor shall further comply with any and all HUD reporting requirements.

11.2 Owner and Owner's lender shall have the right to examine and/or audit, either directly or through its authorized representatives or agents, during business hours and for a reasonable period of time, all nonfinancial records, correspondence, instructions, specifications, plans, drawings, receipts, manuals and memoranda insofar as they are pertinent to any question relating to an audit. This right of inspection shall not apply to trade secrets or other proprietary information properly designated or asserted as such, or to any documents protected in good faith by Attorney-Client or Attorney Work Product privileges provided such claim of Attorney-Client or Attorney Work Product privilege is not made for purposes of thwarting the intent of this Section.

11.3 Owner and Owner's lender shall be granted access to all of Contractor's internal audit information relating to this Agreement, including reports of corrective actions taken as a result of such audit, but access shall not be granted to (i) general financial records not related to this Agreement except as may be solely necessary to verify the audit; or (ii) documents or other items protected in good faith by Attorney-Client or Attorney Work Product privileges provided such claim of Attorney-Client or Attorney Work Product privilege is not made for purposes of thwarting the intent of this Section.

11.4 Regardless of the time when the audit is conducted, in the seven year (or longer) audit period, if the audit determines overcharges by Contractor, Contractor shall repay Owner the amount of said overcharges.

#### **ARTICLE 12 PAYMENTS**

##### **§ 12.1 Progress Payments**

§ 12.1.1 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.

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

§ 12.1.3 Payments are due and payable twenty-five (25) days from the date the Construction Manager's Pay Application is received by the Owner.

§ 12.1.4 Payments may be withheld from Construction Manager in accordance with Section 9.5.1 of the General Conditions.

§ 12.1.5 In exchange for final payment for all services and expenses under this Agreement, Construction Manager shall convey full and final lien waivers for its work under this Agreement and any of its consultants or subcontractors.

§ 12.1.5.1 Intentionally omitted.

§ 12.1.5.2 Intentionally omitted.

§ 12.1.5.3 Intentionally omitted.



§ 12.1.6 Provided that Owner has made payments of the amounts due to Construction Manager under this Agreement, Construction Manager shall keep the Project Site free from any liens by Construction Manager or any person or entity retained by Construction Manager, or their respective assigns. If, because of any act or omission of Construction Manager or anyone claiming through or under Construction Manager, any mechanic's or other lien, encumbrance or order is filed against Owner or the Project Site, Construction Manager shall, at Construction Manager's own cost and expense, cause the same to be canceled, bonded-over and discharged of record promptly after receiving notice thereof, and shall indemnify and hold Owner harmless from and against all costs, expenses, claims, losses or damages, including reasonable attorneys' fees, resulting therefrom or by reason thereof. No Uniform Commercial Code (UCC) or similar state statutory filings shall be made by Construction Manager, except upon express written consent of Owner.

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

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of the General Conditions. Contractor shall provide accounting documentation as proof of costs incurred for that portion of the Work that the Contractor self-performs and for all material/equipment expenses. For subcontracts that were competitively bid, the Guaranteed Maximum Price shall be determined by the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work. For subcontracts that were not competitively bid, accounting documentation shall be provided as proof of costs incurred for that portion of the Work;
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Contractor's Fee, less retainage of five percent (5%) up to the time the Work is fifty percent (50%) complete and then zero percent (0%) thereafter. The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage equal to the amount in the agreement between the Contractor and Subcontractor;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 12.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

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

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 12.1.7.1.1 and 12.1.7.1.2 at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 12.1.7.1.1 and 12.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.



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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 12.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 12.1.8.

§ 12.1.8 Except with the Owner’s prior approval, payments to Subcontractors shall be subject to retention of not less than five percent (5%) up to the time the Work is fifty percent (50%) complete and then zero percent (0%) thereafter which amount shall be reduced consistent with the reduction in Section 12.1.7.4. The Owner and Contractor shall agree upon a mutually acceptable procedure for review and approval of payments and retention for Subcontracts and, when necessary, shall adjust the percentage of retainage held on Subcontracts to a mutually agreeable amount.

*(Paragraphs deleted)*

§ 12.1.9 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.

§ 12.1.10 In taking action on the Contractor’s Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner’s auditors acting in the sole interest of the Owner.

§ 12.1.11 No payment under this Agreement, either final or progress, shall release the Contractor from any obligation under the Contract Documents.

§ 12.1.12 The Owner reserves the right to withhold, on account of subsequently discovered evidence, subsequent observations or otherwise, the whole or any part of any payment which would otherwise be due under this Agreement, to such extent as (a) the Owner may have any claim or offset against the Contractor and/or (b) the Owner, in its reasonable opinion, has a loss or shall consider necessary to protect itself from loss because of any of the items enumerated in Section 9.5.1 of the General Conditions.

## § 12.2 Final Payment

§ 12.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract, except for the Contractor’s responsibility to correct Work as provided in Article 12.2 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work and a final Application for Payment, which documents have been reviewed by Owner’s representative; and
- .3 a final Certificate for Payment has been issued by the Architect.

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:

§ 12.2.2 The amount of the final payment shall be calculated as follows:

- .1 Take the sum of the Cost of the Work substantiated by the Contractor's final accounting and the Contractor's Fee, but not more than the Guaranteed Maximum Price.
- .2 Subtract amounts, if any, for which the Architect withholds, in whole or in part, a final Certificate for Payment as provided in Section 9.5 of the General Conditions or other provisions of the Contract Documents.
- .3 Subtract the aggregate of previous payments made by the Owner.

§ 12.2.2.1 Intentionally omitted.

§ 12.2.2.2 Intentionally omitted.

§ 12.2.2.3 The Owner's auditors will review and report in writing on the Contractor's final accounting within 30 days after delivery of the final accounting to the Architect by the Contractor. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Contractor's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the General Conditions. The time periods stated in this Section supersede those stated in Section 9.4.1 of the General Conditions. The Architect is not responsible for verifying the accuracy of the Contractor's final accounting.

§ 12.2.3 Intentionally omitted.

§ 12.2.4 If, subsequent to final payment, and at the Owner's request, the Contractor incurs costs, described in Section Article 7 and not excluded by Article 8, to correct defective or nonconforming Work, the Owner shall reimburse the Contractor for such costs, and the Contractor's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 5.1.7, the amount of those adjustments shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Contractor.

## § 12.3 Interest

*(Paragraphs deleted)*

Amounts unpaid thirty (30) days from the Owner's receipt of the Construction Manager's approved Pay Application shall bear interest at twelve percent (12%) per annum

## ARTICLE 13 DISPUTE RESOLUTION

### § 13.1

*(Paragraphs deleted)*

Any Claim between the Owner and Contractor shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of the General Conditions

### § 13.2

*(Paragraphs deleted)*

Intentionally Omitted.

## ARTICLE 14 TERMINATION OR SUSPENSION

### § 14.1 Termination

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

*(Paragraphs deleted)*

§ 14.1.1.2 If the Owner terminates the Contract for convenience, the amount payable to the Contractor pursuant to Section 14.4.3 of the General Conditions shall not exceed the amount the Contractor would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.

§ 14.1.1.3 If the Contractor terminates the Contract the amount payable to the Contractor under Section 14.1.3 of the General Conditions shall not exceed the amount the Contractor would otherwise have received under Sections 10.1.2 and 10.1.3 above.

#### § 14.2 Suspension

The Work may be suspended by the Owner as provided in Section 14.3 of the General Conditions; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of the General Conditions, except that the term "Contract Sum" in that Section shall be understood to mean the Cost of the Work and the term "profit" shall be understood to mean the Contractor's Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

### ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 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.

§ 15.2 The Owner's representative:

*(Paragraphs deleted)* The Owner's Representative shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. This representative shall have the authority to make decisions on behalf of the Owner concerning estimates and schedules, construction budgets, and changes in the Work, and shall render such decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Contractor. Except as otherwise provided in Section 4.2.1 of the General Conditions, the Architect does not have such authority.

§ 15.3

*(Paragraphs deleted)*  
Intentionally omitted.

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

#### § 15.5 Insurance and Bonds

§ 15.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in Article 11 of the General Conditions.

§ 15.5.2 Intentionally omitted.

§ 15.6

*(Paragraphs deleted)*  
Intentionally omitted.

§ 15.7 Other provisions:

§ 15.1.7.1 The Owner shall furnish tests, inspections and reports required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials. The Contractor shall, if requested by Owner, assist Owner in furnishing such tests, inspections and reports as the Owner may deem necessary.

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

§ 15.1.7.3 The Contractor, when such services are reasonably required by the scope of the Project and are requested and approved by Owner, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic

evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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

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

§ 15.1.7.6 **Architect.** The Owner shall retain an Architect to provide services, duties and responsibilities, including any additional services requested by the Contractor that are necessary for the Construction Phase services under this Agreement. The Owner shall provide the Contractor a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

#### **Governing Law**

§ 15.1.7.7 The Contract shall be governed by the law of the State of Wisconsin.

#### **§ 15.1.7.8 Assignment**

The Owner and Contractor, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Contractor shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement. Except as provided in Section 13.2.1 of the General Conditions, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

#### **SCOPE OF THE AGREEMENT**

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

#### **ARTICLE 16 ENUMERATION OF CONTRACT DOCUMENTS**

§ 16.1 This Agreement is comprised of the following documents:

- .1 AIA Document A102™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 Intentionally omitted
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction, as modified
- .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.)*

NOT USED

- .5 Intentionally omitted

*(Row deleted)*

*(Paragraph deleted)*

- .6 Intentionally omitted

*(Row deleted)*

*(Paragraph deleted)*

- .7 Intentionally omitted

*(Row deleted)*

Init.

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 16.

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

(Paragraphs deleted)

[ X ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
HUD-5370	General Conditions for Construction Contracts – Public Housing Programs	01/2014 exp11/30/2023	19

- .9 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.)

A1 – Building 3.4 Specifications Project Manual Table of Contents, dated 10/26/2021  
A2 – Phase 4A Townhomes Specifications Project Manual Table of Contents, dated 10/26/2021  
B1 – Building 3.4 Drawings Cover Sheet and Index, dated 10/15/2021  
B2 – Phase 4A Townhomes Drawings Cover Sheet and Index, dated 10/15/2021  
C1 – Building 3.4 Itemized Statement of the Guaranteed Maximum Price, dated 02/24/2022  
C2 – Phase 4A Townhomes Itemized Statement of the Guaranteed Maximum Price, dated 02/24/2022  
D1 – Building 3.4 Construction Schedule, dated 11/29/2021  
D2 – Phase 4A Townhomes Construction Schedule, dated 03/18/2022

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

WESTLAWN RENAISSANCE VII LLC  
A Wisconsin Limited Liability Company

TRAVAUX INC.

By: Westlawn Renaissance V Development LLC  
A Wisconsin Limited Liability Company,  
its Manager

By: Housing Authority of the City of Milwaukee  
A Wisconsin Public Body Corporate and Politic,  
its Manager

OWNER (Signature)

Willie L. Hines, Jr.  
Secretary-Executive Director  
(Printed name and title)

CONTRACTOR (Signature)

Willie L. Hines, Jr.  
President  
(Printed name and title)