

**MOUNTAIN HOME PUBLIC SCHOOLS**

**Board of Education  
Board Review Documents  
For the  
Regular Meeting**

**January 21, 2016**

**MOUNTAIN HOME PUBLIC SCHOOLS  
BOARD OF EDUCATION MEETING**

**January 21, 2016  
Administrative Office  
Board Room  
6:00 P.M.  
AGENDA**

- I. Call to Order by the President of a quorum present; meeting duly called; appropriate notice of meeting given. Welcome to those in attendance: administrators, media and other guests.
    - A. Pledge of Allegiance –Students from Guy Berry
    - B. Approval of Agenda
    - C. Approval of Minutes of the December 17, 2015, and January 7, 2016 Board Meetings
    - D. Recognitions
      - a. School Board Appreciation Month- Dr. Long
      - b. Sheri Smith- Dr. Long
  - II. Reports
    - A. Financial Reports – Ann Harned
    - B. Enrollment Report – as printed
    - C. Academic Report- Dr. Gigliotti
    - D. Review construction manager contract- Dr. Long
  - III. Board Action
    - A. Recommendation to approve School Board Liability Insurance- Dr. Long
    - B. Recommendation to revise bank transaction authorizations- Ann Harned
    - C. Recommendation to accept bid for fencing- Mike Walker
  - IV. Superintendent’s Update and Board Discussion
    - A. Strategic Plan Update
  - V. Executive Session: Personnel
- Adjournment

**OFFICIAL MINUTES OF THE REGULAR MEETING  
OF THE MOUNTAIN HOME BOARD OF EDUCATION**

**December 17, 2015**

The following members of the Board were present for the meeting: Ben Strider, Arnold Knox, Barbara Horton, Jason Schmeski, Bill Wehmeyer and Lisa House. Neal Pendergrass was absent. Administrators and other guests were also present. At 6:00 p.m. Mr. Schmeski called the meeting to order.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Kindergarten students led in the pledge of allegiance to the flag.

**APPROVAL OF AGENDA AND MINUTES**

Mr. Strider made the motion, seconded by Ms. House, to approve the agenda and minutes of the November 19, 2015 and December 1, 2015 meetings.

The motions were unanimously approved.

**RECOGNITIONS**

**30 year Service Recognitions- Dr. Gigliotti**

Dr. Long expressed his appreciation for years of service. He introduced the faculty and staff that have served in the district for over 30 years; he along with Jason Schmeski presented each with a plaque. Those that were recognized were:

Martha Wedgeworth, Dana Rowlett, Mary Ellen Kressin, Sandy Almond, Lisa Carpenter, Gena Smith, Pat Caldwell, Marjorie Jones, Jan Beasley, Linda Denton and Nancy Reed.

**ROTC- Senior Chief Peel**

Sr. Chief Troy Peel introduced the ROTC students. There are 90 students to date. Sr. Chief gave a recap of the competition the unit has participated in this school year. He shared unit placing from various competitions as well.

**JR Bomb Squad- Dr. Jake Long**

Dr. Long recognized the Junior Bomb Squad's recent competition where the team qualified for finals.

**REPORTS**

**Financial Reports– Ann Harned**

Ms. Harned went over the page on Statement of Revenues, Expenditures and Changes in Fund Balance for the month ended November 30, 2015 with total fund balances of

\$12,179,703.40 and total current expenditures and outgoing transfers of \$4,793,161.07.

Ms. Harned went over the Statement of Changes in Activity Funds.

### **Attendance- as read (3903)**

### **Academic Report- Dr. Leigh Anne Gigliotti**

Dr. Gigliotti gave the academic report, she spoke of the meeting on December 1<sup>st</sup> regarding scope/sequence. The teachers developed a comprehensive plan individualized for the learner. She gave a sample of their work to the board. The next meeting is January 4<sup>th</sup>. Their goals are curriculum maps for the 16-17 school year.

Darla Deatherage provided a summary of PARCC results for the district (a copy will be a part of the official minutes).

### **BOARD ACTION**

### **Recommendation to accept petition to transfer- Dr. Long**

Dr. Long and Brent Bogy went over the student transfer list and answered questions from the board. Mr. Bogy recommended that the board accept the transfer list as presented.

### **Motion to accept transfer student**

Mr. Strider made the motion to accept the transfer of student, seconded by Mr. Knox.

The motion was unanimously approved.

### **Superintendent's Update – Dr. Jake Long**

Dr. Long gave his update where he:

- Expressed appreciation for the board's participation in the ASBA annual conference
- Gave ESEA updates
- Spoke of learning based learning. Time based learning
- Discussed the new *Bomber Briefs*
- Spoke of the upcoming platform on the website for suggestions/comments
- Financial Stability meeting: Looking for ways to trim finances, provide purposeful PD, software and copy concerns were among the topics discussed

Dr. Long introduced Janet Wood and Keith Alman, who gave their technology update:

- Tech committee continues to meet every other week
- Providing Tech Tuesday for teachers
- January 4 Google PD scheduled
- Planning for the acquisition of student devices

- Printer analysis conducted throughout the district
- Emints, instructional technologists

**A break was taken at 7:00pm**

**Executive Session Results – 7:59pm.**

**Recommendation on Classified Staff – Dr. Jake Long**

Dr. Long recommended that the Board approve the recommendations as listed on the classified staff sheet.

**Motion on Classified Staff**

Mr. Strider made a motion, seconded by Ms. House, to accept the Superintendent's recommendation for classified staff as listed.

The motion was unanimously approved.

**Recommendation for stipends – Dr. Jake Long**

Dr. Long recommended that the Board approve the recommendations as listed on the stipend sheet.

**Motion on stipends**

Mr. Wehmeyer made a motion, seconded by Ms. Horton to accept the Superintendent's recommendations listed on the stipend sheet.

The motion was unanimously approved.

**ADJOURNMENT**

The meeting was adjourned at 7:59 p.m.

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Jason Schmeski, President

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Bill Wehmeyer, Secretary

**OFFICIAL MINUTES OF THE MEETING  
OF THE MOUNTAIN HOME BOARD OF EDUCATION**

**Hackler Intermediate**

**January 7, 2016**

The following members of the Board were present for the meeting: Ben Strider, Neal Pendergrass, Arnold Knox, Bill Wehmeyer, Jason Schmeski, Barbara Horton and Lisa House. Administrators and other guests were also present. The meeting had been duly called and appropriate notice given. Mr. Schmeski called the meeting to order at 11:00 a.m.

**PRESENTATION**

Sondra Monger, Principal, introduced a group of students that have perfect attendance. The students led the pledge of allegiance. Ms. Monger, Assistant Principals Mr. Kevin Roach and Ms. Cassy Barnhill answered questions from the board regarding several topics, such as co-teaching, assessments, and enrichment classes. There was also discussion of what the school's greatest needs and strengths and weaknesses. The board ate lunch with the students and visited classrooms.

**ADJOURNMENT**

Meeting adjourned at 12:30 p.m.

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Jason Schmeski, President

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Bill Wehmeyer, Secretary

**MOUNTAIN HOME PUBLIC SCHOOLS**  
**STATEMENT OF CHANGES IN FUND BALANCE**  
**December 31, 2015**

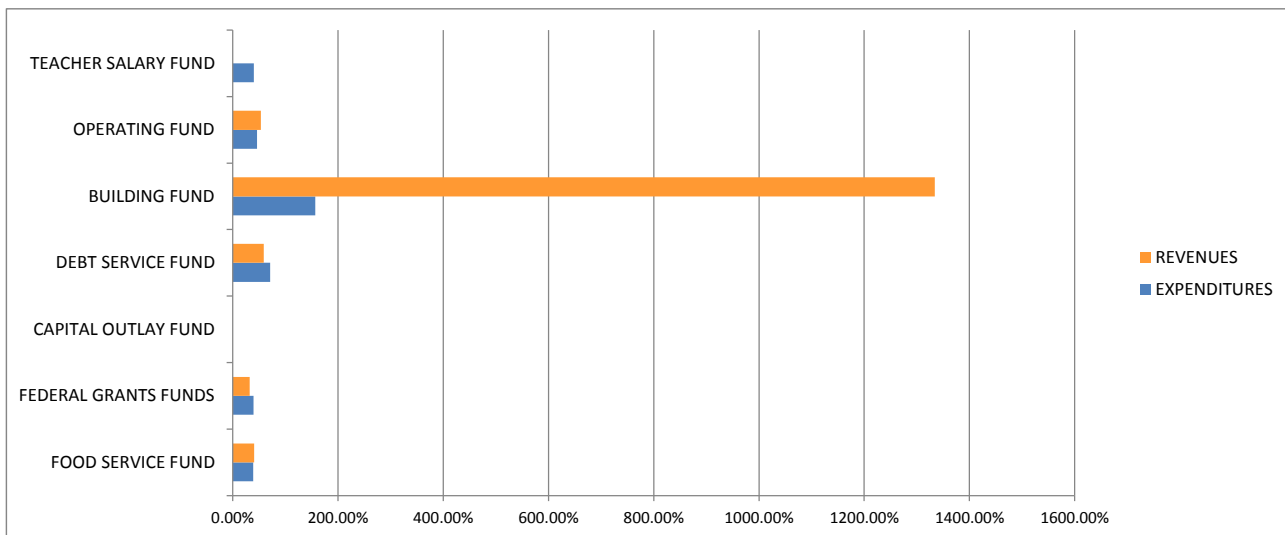
FUND CODE	FUND TITLE	BEGINNING BALANCE	REVENUE	TRANSFERS IN	TRANSFERS OUT	EXPENDITURES	ENDING BALANCE
1000	TEACHER SALARY FD	-		1,141,918.18		1,141,918.18	-
1246	PATHWISE MENTORING	-		7,800.00		7,800.00	-
1275	TSF-ALTERNATIVE LNG	-		48,756.88		48,756.88	-
1276	TSF-ELL	-		2,920.94		2,920.94	-
1281	TSF-NSLA	-		25,318.92		25,318.92	-
2000	OPERATING FUND	16,597,809.00			1,141,918.18	1,112,406.49	14,343,484.33
2001	OTHER OPER FUND	(7,291,918.19)	1,943,987.51			5,000.03	(5,352,930.71)
	TOTAL UNRSTD OPER FUN	9,305,890.81	1,943,987.51	-	1,141,918.18	1,117,406.52	8,990,553.62
2032	DUNBAR FUND	3,033.37	1,770.00			30.75	4,772.62
2060	GAME & FISH FINES	3,457.32				501.11	2,956.21
2061	BAND DEPOSITS	1,232.74				35.00	1,197.74
2065	G&F-JH SCHLYRD HABITA	153.95					153.95
2067	MAGNESS OIL GRANT	2,095.10					2,095.10
2070	WELL FARGO GRANTS	2,232.01				2,420.48	(188.47)
2090	FUTURE BUILDING NEEDS	446,838.18	122.88				446,961.06
2201	ADULT EDUC FUND	(820.00)	820.00				-
2218	DECLINING ENROLLMENT	-					-
2219	SCIENCE & TECH GRANT	143.31					143.31
2223	PROF DEVELOPMENT	38,128.59				11,773.07	26,355.52
2232	SCHOOL RECOG PROG	26,269.04					26,269.04
2240	SPEC ED EXT YEAR	(6,375.28)					(6,375.28)
2246	PATHWISE MENTORING	1,205.92	13,194.08		7,800.00	1,721.46	4,878.54
2255	RESIDENTIAL TREATMENT	8,308.73					8,308.73
2265	SPEC ED CATASTROPHIC	34,962.17				3,695.91	31,266.26
2271	AP INCENTIVE SCHOOL	2,426.18	2,700.00				5,126.18
2275	ALTERNATIVE LEARNING	178,735.98			48,756.88	29,180.23	100,798.87
2276	ENGLISH LANG LEARNER	(10,535.22)	9,396.00		2,920.94	820.06	(4,880.22)
2281	NSLA	310,664.96	101,648.00		25,318.92	44,491.47	342,502.57
2293	SECONDARY WRKFRCE	-				21,666.67	(21,666.67)
2941	COMP SCIENCE GRANT	20,000.00				3,323.12	16,676.88
2995	PEPSI	50,677.35	359.19			375.35	50,661.19
3000	BUILDING FUND	1,347,486.86	582.50			22,699.17	1,325,370.19
3130	QSCB	303,738.21					303,738.21
4000	DEBT SERVICE FUND	-					-
6501	TITLE I	(30,776.71)	61,269.04			58,145.56	(27,653.23)
6570	CARL D. PERKINS	(17,952.27)					(17,952.27)
6702	VI-B	(29,031.48)				58,036.67	(87,068.15)
6750	MEDICAID	(29,833.68)				28,259.80	(58,093.48)
6752	ARMAC	58,525.95				17,289.48	41,236.47
6756	TITLE II, PART A	(14,869.34)	20,215.39			8,999.34	(3,653.29)
6784	TITLE VI	(0.00)	366.80			864.69	(497.89)
8000	FOOD SERVICE FUND	173,690.65	127,484.97			145,928.67	155,246.95
	TOTAL	12,179,703.40	2,283,916.36	1,226,714.92	1,226,714.92	2,804,379.50	11,659,240.26

DISTRIBUTION OF FUNDS	
INTEGRITY 1ST CKG	4,005,289.06
INTEGRITY 1ST MMA	7,351,520.80
INTERGOV'T REC	-
QSCB SINKING FUND	303,738.21
ACCOUNTS PAYABLE	(1,307.81)
BALANCE OF FUNDS	<u>11,659,240.26</u>

**Mountain Home Public Schools  
Statement of Revenues, Expenditures, and Changes in Fund Balance  
For the Month Ended  
December 31, 2015**

TOTAL REVENUES					
CLASSIFICATION	CURRENT	YEAR-TO-DATE	BUDGET AMOUNT	REMAINING BUDGET BAL	PCT REV TO DATE
TEACHER SALARY FUND	-	-	-	-	0.00%
OPERATING FUND	2,073,997.66	17,648,380.16	32,960,966.15	15,312,585.99	53.54%
BUILDING FUND	582.50	106,752.48	8,000.00	(98,752.48)	1334.41%
DEBT SERVICE FUND	-	27,866.08	47,335.00	19,468.92	58.87%
CAPITAL OUTLAY FUND	-	-	-	-	0.00%
FEDERAL GRANTS FUNDS	81,851.23	890,124.08	2,760,603.15	1,870,479.07	32.24%
FOOD SERVICE FUND	127,484.97	729,419.58	1,784,000.00	1,054,580.42	40.89%
<b>TOTAL</b>	<b>2,283,916.36</b>	<b>19,402,542.38</b>	<b>37,560,904.30</b>	<b>18,158,361.92</b>	<b>51.66%</b>

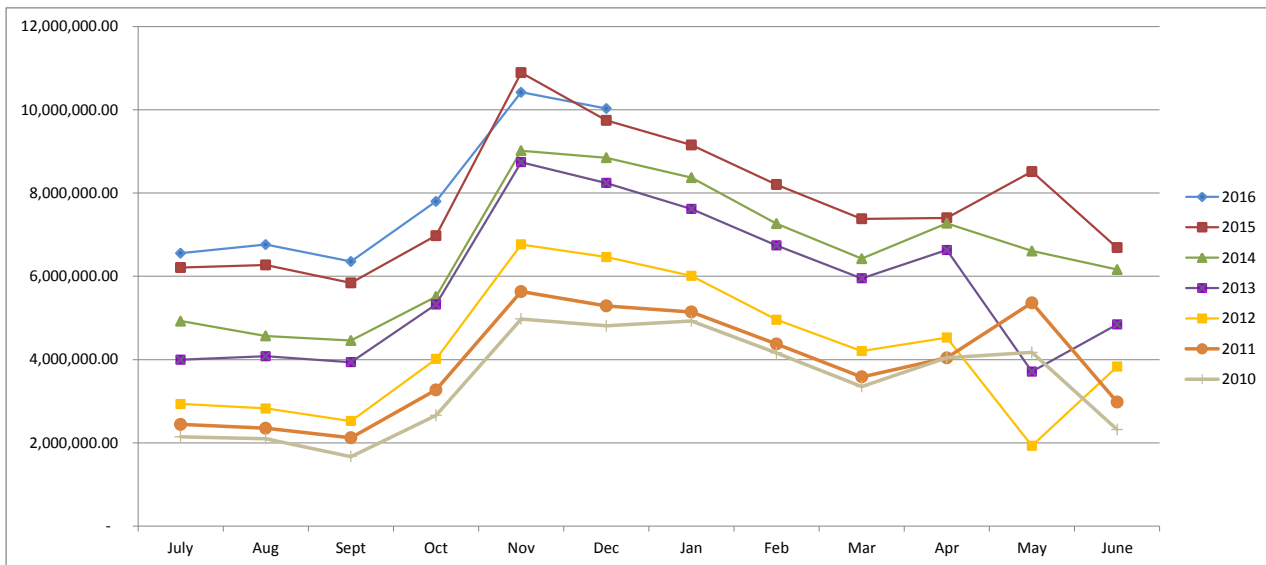
TOTAL EXPENDITURES						
CLASSIFICATION	CURRENT	YEAR-TO-DATE	OUTSTANDING ENCUMBRANCES	BUDGET AMOUNT	REMAINING BUDGET BAL	PCT EXP TO DATE
TEACHER SALARY FUND	1,226,714.92	5,851,917.60	-	14,709,698.39	8,857,780.79	39.78%
OPERATING FUND	1,237,441.20	6,545,321.42	554,908.43	15,404,916.34	8,304,686.49	46.09%
BUILDING FUND	22,699.17	1,155,471.66	36,454.78	760,000.00	(431,926.44)	156.83%
DEBT SERVICE FUND	-	1,921,406.10	-	2,706,390.75	784,984.65	71.00%
CAPITAL OUTLAY FUND	-	-	-	-	-	0.00%
FEDERAL GRANTS FUNDS	171,595.54	1,119,009.25	7,114.97	2,835,806.48	1,709,682.26	39.71%
FOOD SERVICE FUND	145,928.67	643,317.35	52,999.94	1,780,835.04	1,084,517.75	39.10%
<b>TOTAL</b>	<b>2,804,379.50</b>	<b>17,236,443.38</b>	<b>651,478.12</b>	<b>38,197,647.00</b>	<b>20,309,725.50</b>	<b>46.83%</b>





**MONTHLY OPERATING FUND BALANCE TRACKING**

	<u>2016</u>	<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>
July	6,554,876.05	6,209,712.52	4,923,164.33	3,996,243.91	2,932,589.77	2,443,953.29	2,141,297.99
Aug	6,761,181.04	6,272,774.15	4,566,704.14	4,080,137.00	2,825,305.80	2,349,302.86	2,101,778.52
Sept	6,355,830.09	5,839,251.99	4,455,319.41	3,937,793.49	2,523,400.48	2,121,704.63	1,670,811.96
Oct	7,798,137.90	6,975,714.85	5,510,109.54	5,323,644.85	4,014,216.66	3,270,173.40	2,659,958.63
Nov	10,418,725.21	10,890,930.14	9,017,597.03	8,741,548.51	6,766,640.13	5,631,053.20	4,975,293.53
Dec	10,028,566.75	9,745,654.85	8,847,300.37	8,241,197.33	6,463,148.97	5,287,034.19	4,807,267.23
Jan		9,154,231.28	8,369,430.68	7,619,209.16	6,010,998.38	5,145,295.84	4,927,493.99
Feb		8,202,083.48	7,265,090.76	6,740,912.76	4,953,670.38	4,372,903.23	4,159,754.44
Mar		7,379,349.85	6,423,911.17	5,952,257.14	4,204,546.05	3,584,526.89	3,353,195.17
Apr		7,403,605.98	7,274,156.70	6,632,568.63	4,526,821.27	4,041,912.39	4,044,212.11
May		8,513,603.64	6,607,398.70	3,709,436.41	1,927,765.37	5,363,919.99	4,171,420.58
June		6,688,484.97	6,160,908.58	4,843,015.73	3,830,129.34	2,981,424.19	2,317,477.63



**Mountain Home Public Schools  
Statement of Changes in Activity Funds  
December 31, 2015**

<b>Account</b>	<b>Beginning Balance</b>	<b>Increases to Balance</b>	<b>Available Balance</b>	<b>Decreases to Balance</b>	<b>Ending Balance</b>
High School	93,490.85	18,594.83	112,085.68	10,102.58	101,983.10
Junior High	28,117.76	2,123.64	30,241.40	3,828.66	26,412.74
Pinkston Middle School	36,929.05	4,847.94	41,776.99	2,649.67	39,127.32
Hackler	38,601.13	16,556.64	55,157.77	7,633.57	47,524.20
Nelson Wilks Herron	40,151.85	2,374.63	42,526.48	2,956.95	39,569.53
Kindergarten	14,356.63	784.29	15,140.92	260.10	14,880.82
Special Education	3,598.44		3,598.44		3,598.44
Athletics	34,609.55	12,504.83	47,114.38	7,647.42	39,466.96
Odyssey of the Mind	5,427.65		5,427.65		5,427.65
Guy Berry	6,184.21	2,181.29	8,365.50	1,652.33	6,713.17
Totals	301,467.12	59,968.09	361,435.21	36,731.28	324,703.93



# MOUNTAIN HOME PUBLIC SCHOOLS

**Dr. Jacob Long**  
Superintendent

2465 Rodeo Drive  
Mountain Home, AR 72653  
870-425-1201  
Fax 870-425-1316

**Dr. Leigh Anne Gigliotti**  
Assistant Superintendent

TO: Mountain Home School Board  
FROM: Dr. Long and Ann Harned  
SUBJECT: Authority for Electronic Bank Transactions  
DATE: January 21, 2016

**BACKGROUND:** Act 989 of 2011 specifies that school district disbursements may only be made by properly signed check or electronic transfers of funds initiated by the district, with written authorization by the superintendent and the board's disbursing officer. While bank documents exist authorizing general payroll-related transactions, the auditors expressed a desire for more specific board approval.

**RATIONALE:** Over the years, payroll processes have evolved so that certain payroll-related transactions should be handled via electronic/EFT/ACH bank transactions. This includes generating the direct deposit check file; transmitting taxes or teacher retirement; and other payroll deductions. With cross-training in duties, it is crucial that the authority for initiating those transactions rest with each of four individuals in the finance department.

**RECOMMENDATION:** We recommend adoption of a resolution to authorize Ann Harned, Lisa Lind, Tammy Small, or Loretta Allen to initiate electronic, EFT, or ACH transmissions of the payroll direct deposit file; payments of federal and state payroll taxes; teacher retirement (ATRS or APERS) payments; and payments to TASC, DataPath, WageWorks, EBD (Employee Benefits Division), or other payroll deduction vendors.

**CONTACT PERSONS:** Dr. Jacob Long and Ann Harned

# MOUNTAIN HOME PUBLIC SCHOOLS

**Dr. Jacob Long**  
Superintendent

2465 Rodeo Drive  
Mountain Home, AR 72653  
870-425-1201  
Fax 870-425-1316

**Dr. Leigh Anne Gigliotti**  
Assistant Superintendent

TO: Mountain Home School Board  
FROM: Dr. Jake Long  
SUBJECT: Renewal of Construction Manager Contract  
DATE: January 21, 2016

**BACKGROUND:** Gregory & Company, Inc. has been engaged as Construction Manager for Mountain Home Public Schools for several years, and has been engaged in the construction and/or renovation of several District projects.

**RATIONALE:** The District has been satisfied with the service provided by Gregory & Company and would like to continue to engage them, both to complete some jobs currently underway, and assist as needed with future jobs.

**RECOMMENDATION:** We recommend renewing the Construction Manager contract with Gregory & Company, Inc.

**CONTACT PERSONS:** Dr. Jake Long



1875 South College • P.O. Box 710 • Mountain Home, AR 72654 • Phone (870) 425-7171 • Fax (870) 425-7175 • email: [gci@gregoryco.net](mailto:gci@gregoryco.net)

December 18, 2015

Dr Jacob Long  
Mountain Home Public School District  
2465 Rodeo Drive  
Mountain Home AR 72653

Dear Dr Long,

Enclosed please find the renewal contract for the fiscal year ending 2016. We appreciate the work we performed last year and look forward to another successful year working with you and the school district.

We forwarded a copy of the enclosed contract to Steve Elliott with Lewis, Elliott, McMorran, Vaden, Ragsdale & Woodward Inc. Also, a copy was forwarded to Mike Walker for review.

Please review the enclosed contract. If you have any questions, please let us know. If contract meets with your approval, please execute and return for our signature. We look forward to next year's upcoming projects.

Sincerely,

A handwritten signature in black ink, appearing to read 'Will Gregory', with a long, sweeping flourish extending to the right.

Will Gregory



# AIA<sup>®</sup> Document A134<sup>™</sup> – 2009

## **Standard Form of Agreement Between Owner and Construction Manager as Constructor** where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price

**AGREEMENT** made as of the 6th day of January in the year 2016  
*(In words, indicate day, month and year.)*

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

Mountain Home Public School District  
2465 Rodeo Drive  
Mountain Home, AR 72653

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

Gregory Co Inc  
PO Box 710  
Mountain Home, AR 72654

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

The Architect:  
*(Name, legal status and address)*

Lewis, Elliott, McMorran, Vaden, Ragsdale & Woodward Inc  
11225 Huron Lane Suite 104  
Little Rock, AR 72211

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

Dr Jacob Long  
2465 Rodeo Drive  
Mountain Home, AR 72653

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

Will Gregory  
PO Box 710  
Mountain Home, AR 72654

### **ADDITIONS AND DELETIONS:**

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

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

AIA Document A201<sup>™</sup>–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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

The Owner and Construction Manager agree as follows.

This agreement will cover projects to be performed during the fiscal year ending 2016. Owner and Construction Manager agree to fee schedule listed in 5.1.1.



## TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES
- 3 OWNER'S RESPONSIBILITIES
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- 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
- 6 COST OF THE WORK FOR CONSTRUCTION PHASE
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- 8 INSURANCE AND BONDS
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- 11 MISCELLANEOUS PROVISIONS
- 12 SCOPE OF THE AGREEMENT

### ARTICLE 1 GENERAL PROVISIONS

#### § 1.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's approval of the Control Estimate, the Contract Documents will also include the documents described in Section 2.2.4 and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.5. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

#### § 1.2 Relationship of the Parties

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

#### § 1.3 General Conditions

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

#### § 1.4 Contract Sum, Contract Time and Changes in the Work

The Contract Sum is the actual Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee as defined in Section 5.1. The Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work as certified by the Architect in accordance with Section

9.8 of AIA Document A201–2007. The Contract Time shall be measured from the date of commencement of the Construction Phase as established pursuant to Section 2.3.1.2 of this Agreement. Changes in the Work shall be governed by Section 5.2 of this Agreement and not by Article 7 of A201–2007. If, however, the Contract Time has been established in accordance with Section 2.2.4.5, Article 7 of A201–2007 shall control adjustments to the Contract Time.

## **ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES**

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

### **§ 2.1 Preconstruction Phase**

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

### **§ 2.1.2 Consultation**

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

**§ 2.1.3** When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Control Estimate; the components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

### **§ 2.1.4 Phased Construction**

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

### **§ 2.1.5 Preliminary Cost Estimates**

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

**§ 2.1.5.2** As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Construction Manager submits a Control Estimate for the Work, pursuant to Section 2.2. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

### § 2.1.6 Subcontractors and Suppliers

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

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

### § 2.1.8 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules, including the Control Estimate and the estimated date of Substantial Completion, except as provided in Section 2.2.4.5. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

### § 2.1.9 Notices and Compliance with Laws

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

## § 2.2 Control Estimate

§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Control Estimate for the Owner's review and acceptance. The Control Estimate shall be the sum of the Construction Manager's estimate of the Cost of the Work and the Construction Manager's Fee and shall include those items set forth in Section 2.2.4 below. When the Control Estimate is acceptable to the Owner, the Owner shall acknowledge it in writing.

§ 2.2.2 The Construction Manager shall develop and implement a detailed system of cost control that will provide the Owner and Architect with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the Control Estimate with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes. This information shall be reported to the Owner, in writing, no later than the Construction Manager's first Application for Payment and shall be revised and submitted with each Application for Payment.

§ 2.2.3 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Control Estimate for 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 in a revised Control Estimate by mutual agreement of the parties.

§ 2.2.4 The Control Estimate shall include

- .1 a list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 a list of the clarifications and assumptions made by the Construction Manager in the preparation of the Control Estimate, including assumptions under Section 2.2.3, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .3 a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, and the Construction Manager's Fee;
- .4 the anticipated date of Substantial Completion upon which the Control Estimate is based, and a schedule for the issuance dates of the Construction Documents upon which the anticipated Substantial Completion date relies; and

- .5 a statement as to whether or not the duration from the stated date of commencement of the Construction Phase to the estimated date of Substantial Completion shall become the Contract Time and be subject to the provisions of Article 8 of A201–2007.

§ 2.2.5 The Owner shall authorize the Architect to incorporate the agreed-upon assumptions and clarifications contained in the Control Estimate. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Control Estimate and the revised Drawings and Specifications.

## § 2.3 Construction Phase

### § 2.3.1 General

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

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's approval of the Control Estimate or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

§ 2.3.1.3 Prior to commencement of the Construction Phase, the Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work.

### § 2.3.2 Administration

§ 2.3.2.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 2.3.2.2 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 Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below.

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

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

§ 2.3.2.5 Upon the Owner's approval of the Control Estimate, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of A201–2007.

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

## § 2.4 Professional Services

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

Init.

## § 2.5 Hazardous Materials

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

### ARTICLE 3 OWNER'S RESPONSIBILITIES

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

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

§ 3.1.2 Prior to the Owner's approval of the Control Estimate, or within seven days of receiving the Owner's written acknowledgment required by Section 2.2.1, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

§ 3.1.4 **Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

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

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

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

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

### § 3.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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

### § 3.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B103™-2007, Standard Form of Agreement Between Owner and Architect, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

## ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

### § 4.1 Compensation

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

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

Plans, Materials, and Fees.

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within Three ( 3 ) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

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

### § 4.2 Payments

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

§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid Ten ( 10 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.  
*(Insert rate of monthly or annual interest agreed upon.)*

3 % Three

## ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

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

§ 5.1.1 The Construction Manager's Fee:

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

The table below lists the adjustable fees pending contractor's cost:

Init.

Cost Over	But Cost Not Over	Fee
\$4,000.00	\$250,000.00	\$0.00 plus 15%
\$250,001.00	\$1,000,000.00	\$37,500.00 plus 11%
\$1,000,001.00	\$2,500,000.00	\$120,000.00 plus 9%
Above \$2,500,001.00		\$255,000.00 plus 6%.

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

Cost + 10%

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

§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed percent ( %) of the standard rate paid at the place of the Project.

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

Item	Units and Limitations	Price per Unit (\$0.00)
Trench Rock	CY	\$150.00
Mass Rock	CY	\$100.00
Remove & Replace Unsuitable Material	CY	\$20.00

**§ 5.2 Changes in the Work**

§ 5.2.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201-2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work. The Construction Manager shall incorporate all changes in the Work and Contract Time as separate entries in the Control Estimate.

§ 5.2.2 Increased costs for the items set forth in Sections 6.1 through 6.7 that result from changes in the Work shall become part of the Cost of the Work, and the Construction Manager's Fee shall be adjusted as provided in Section 5.1.2.

§ 5.2.3 If the Construction Manager receives any Drawings, Specifications, interpretations or instructions from the Owner or Architect which are inconsistent with the Contract Documents, or encounters unanticipated conditions, any of which will result in a significant change in the Cost of the Work or estimated date of Substantial Completion in comparison with the Control Estimate, the Construction Manager shall promptly notify the Owner and Architect in writing and shall not proceed with the affected Work until the Construction Manager receives further written instructions from the Owner and Architect.

§ 5.2.4 If no specific provision is made in Section 5.1.2 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 5.1.2 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work.

**ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE**

**§ 6.1 Costs to Be Reimbursed**

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.2 Where any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval prior to incurring the cost.

## § 6.2 Labor Costs

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

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

*(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager's principal or other offices shall be included in the Cost of the Work, identify in Section 11.5, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)*

§ 6.2.3 Wages and salaries of the Construction Manager'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.

§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3.

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

## § 6.3 Subcontract Costs

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

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

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

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

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

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

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

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

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



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

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

#### § 6.6 Miscellaneous Costs

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

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

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

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

§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager's Fee. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201-2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

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

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

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

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

#### § 6.7 Other Costs and Emergencies

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

§ 6.7.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of AIA Document A201-2007.

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

§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work notwithstanding any provision of AIA Document A201–2007 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 6.8.

#### § 6.8 Costs Not to Be Reimbursed

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

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 6.2, or as may be provided in Article 11;
- .2 Expenses of the Construction Manager's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Sections 6.1 through 6.7;
- .4 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of the Construction Manager, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Sections 6.1 through 6.7; and
- .7 Costs for services incurred during the Preconstruction Phase.

#### § 6.9 Discounts, Rebates and Refunds

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

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

#### § 6.10 Related Party Transactions

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

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

#### § 6.11 Accounting Records

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

## ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

### § 7.1 Progress Payments

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

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

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the 5th day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the 15th day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than Ten ( 10 ) days after the Architect receives the Application for Payment.

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

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

§ 7.1.5 Applications for Payment shall show the Cost of the Work actually incurred by the Construction Manager through the end of the period covered by the Application for Payment and for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment.

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

- .1 Take the Cost of the Work as described in Section 6.1.1;
- .2 Add the Construction Manager's Fee, less retainage of Five percent ( 5 %). The Construction Manager's Fee shall be computed upon the Cost of the Work described in the preceding Section 7.1.6.1 at the rates stated in Section 5.1.1; or if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract retainage of Five percent ( 5 %) from that portion of the Work that the Construction Manager self-performs;
- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Subtract amounts, if any, for which the Architect has withheld or withdrawn a Certificate for Payment as provided in the Contract Documents.

§ 7.1.7 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

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

§ 7.1.9 In taking action on the Construction Manager's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation

submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

## § 7.2 Final Payment

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

- .1 the Construction Manager has fully performed the Contract except for the Construction Manager's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect.

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

Upon receipt of all final lien waivers and warranty letters.

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

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201-2007. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager such costs and the Construction Manager's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment.

## ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201-2007.

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

Type of Insurance or Bond

Limit of Liability or Bond Amount (\$0.00)

## ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201-2007. However, for Claims arising from or relating to the

Init.

Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.

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

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

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

### § 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

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

## ARTICLE 10 TERMINATION OR SUSPENSION

### § 10.1 Termination Prior to Owner's Approval of the Control Estimate

§ 10.1.1 Prior to the Owner's approval of the Control Estimate, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Section 14.1.1 of A201–2007.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 4.1.

§ 10.1.3 In the event of termination of this Agreement pursuant to Section 10.1.1, after the commencement of the Construction Phase but prior to the Owner's approval of the Control Estimate, the Owner shall pay to the Construction Manager under Section 10.1.2 an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 10.1.2:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 10, execute and deliver all such papers and take all such

steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

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

#### **§ 10.2 Termination Subsequent to the Owner's Approval of the Control Estimate**

**§ 10.2.1** Subsequent to the Owner's approval of the Control Estimate, the Contract may be terminated as provided in Sections 14.1.1, 14.1.2 and 14.2.1 of A201–2007. The provisions of Article 14 of A201–2007 do not otherwise apply to this Section 10.2.

**§ 10.2.2** In the event of such termination by the Owner, the amount payable to the Construction Manager shall not exceed the amount the Construction Manager would have been entitled to receive pursuant to Sections 10.1.2 and 10.1.3 of this Agreement, less any compensation that may be awarded to the Owner pursuant to Article 9.

**§ 10.2.3** In the event of such termination by the Construction Manager, the amount payable to the Construction Manager shall be in accordance with Sections 10.1.2 and 10.1.3 of this Agreement, except that the Construction Manager's Fee shall be calculated as if the Work had been fully completed by the Construction Manager, including a reasonable estimate of the Cost of the Work for Work not actually completed.

**§ 10.2.4** In addition to the Owner's right to terminate this Agreement for cause as provided in Section 14.2.1 of A201–2007, the Owner may terminate this Agreement for convenience as provided in Section 14.4; however, the Owner shall then only pay the Construction Manager an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner.

#### **§ 10.3 Suspension**

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007. In such case, the Control Estimate and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 5.1 and 5.2.4 of this Agreement.

### **ARTICLE 11 MISCELLANEOUS PROVISIONS**

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

#### **§ 11.2 Ownership and Use of Documents**

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

#### **§ 11.3 Governing Law**

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

#### **§ 11.4 Assignment**

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

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

§ 11.5 Other provisions:

**ARTICLE 12 SCOPE OF THE AGREEMENT**

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

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A134–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price
- .2 AIA Document A201–2007, General Conditions of the Contract for Construction
- .3 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:
  - .4 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
  - .5 Other documents:  
*(List other documents, if any, forming part of the Agreement.)*

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

\_\_\_\_\_  
OWNER *(Signature)*

\_\_\_\_\_  
CONSTRUCTION MANAGER *(Signature)*

| Jacob Long Superintendent  
\_\_\_\_\_  
*(Printed name and title)*

Will Gregory Vice President  
\_\_\_\_\_  
*(Printed name and title)*

# MOUNTAIN HOME PUBLIC SCHOOLS

**Dr. Jacob Long**  
Superintendent

2465 Rodeo Drive  
Mountain Home, AR 72653  
870-425-1201  
Fax 870-425-1316

**Dr. Leigh Anne Gigliotti**  
Assistant Superintendent

TO: Mountain Home School Board  
FROM: Dr. Jacob Long  
SUBJECT: School Board Legal Liability Insurance  
DATE: January 21, 2016

**BACKGROUND:** The District must carry legal liability insurance which covers actions of the Board, administration, and staff. For the year beginning February 1, 2016, we propose to renew our current policy which is underwritten by ACE USA and endorsed by the Arkansas School Boards Association.

**RATIONALE:** School districts across the state joined together to purchase legal liability insurance at generally more attractive rates than are available to individual districts. Coverage and quote for the new policy proposal is attached. There will be no change in coverage or other terms or conditions. The rate for the new policy is \$10,770, which is \$1,289 (13.6%) higher than last year's premium. This company has been reliable and professional in our past dealings. We have been with this particular company since the year 2010-11.

**RECOMMENDATION:** We recommend the board renew its school board legal liability policy underwritten by ACE American insurance, through BancorpSouth and endorsed by the Arkansas School Boards Association, effective February 1, 2016.

**CONTACT PERSON:** Dr. Jacob Long





**BancorpSouth**

Insurance Services, Inc.

January 5, 2016

Dr. Jake Long  
Superintendent  
Mountain Home School District  
2465 Rodeo Drive  
Mountain Home, AR 72653

RE: RENEWAL PROPOSAL:  
School Board Legal Liability and Employment Practices Liability  
General Liability Coverage –“Out of Arkansas” coverage

Dear Dr. Jake Long:

Please find the following renewal proposal underwritten by ACE USA and endorsed by the Arkansas School Boards Association. ACE American Insurance Company will be continuing the program.

The renewal proposal may reflect an increase in premium. ACE spread the premium to the slots (school districts size) that are experiencing the most losses. For the overall program it's an average 2.5% increase.

The General Liability Coverage is being moved to a standalone program underwritten by Cincinnati Specialty Insurance Company. This policy provides General Liability when traveling outside the State of Arkansas. If your district elected this coverage in the past the premium has been noted as “Included”. If you do not currently have this coverage we have shown the premium and you can elect to have this coverage added by making the selection on the renewal election form. The cost of this insurance is down from \$625 to \$600.

Employment Practices Liability Assist (EPLAssit) is being continued for the 2016/2017 policy term with Littler Mendelson P.C. This has been an important risk management function of the program and districts have utilized this resource to a great extent.

The policy term will be February 1, 2016 to February 1, 2017. When comparing to last year's quote remember the premium for last year was for only 10 months and this quote is for 12 months. Once you have reviewed the renewal quotation we ask that you please complete the renewal election form included in the proposal and return.

The form can be faxed to: 501-664-8052  
Or emailed to: [Bill.Birch@bxsi.com](mailto:Bill.Birch@bxsi.com) and [Carol.Cook@bxsi.com](mailto:Carol.Cook@bxsi.com)

If you should have any questions, comments or desire a quote with higher limits please do not hesitate to contact me.

Sincerely,

William B. Birch, CSR  
Senior Vice President – Risk Consultant

cc: Shannon Moore, ASBA Risk Management

*Ramsey, Krug, Farrell & Lensing*

8315 Cantrell Rd. · P. O. Box 251510 · Little Rock, AR 72225 · 501-664-7705 · Fax 501-664-8052 · [www.bxsi.com](http://www.bxsi.com)



**BancorpSouth**

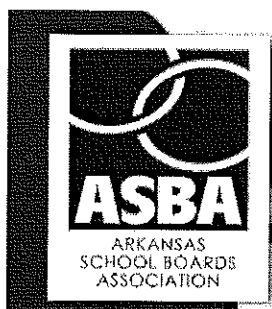
Insurance Services, Inc.

**SCHOOL BOARD LEGAL LIABILITY  
PROPOSAL FOR INSURANCE**

PREPARED FOR:

**Mountain Home School District**

2465 Rodeo Drive  
Mountain Home, AR 72653



**Program endorsed and supported by  
Arkansas School Boards Association**

PRESENTED BY:

**Bill Birch, CSRM**

**Senior Vice President – Risk Consultant**

Little Rock  
P.O. Box 251510  
Little Rock, AR 72225  
Phone: 501-614-1170 Fax: 501-614-1470

January 5, 2016

*Ramsey, Krug, Farrell & Lensing*

8315 Cantrell Rd. · P. O. Box 251510 · Little Rock, AR 72225 · 501-664-7705 · Fax 501-664-8052 · [www.bxsi.com](http://www.bxsi.com)



**BancorpSouth**<sup>®</sup>

Insurance Services, Inc.

## Important – Please Read

As you review our proposal, please keep these thoughts in mind:

Always refer to the policies for specific coverage questions. Our proposal is a general overview only. The policy contract determines where and if coverage is available.

The liability limits that we illustrate in this proposal are options only. We can provide additional alternative limit options if you request. The selection of limits is solely your decision.

Please notify us throughout the policy year of changes in your business that may affect your exposure to risk. Failure to do so may result in uncovered losses.

The solvencies of the insurance carriers that you select are of utmost importance. Unless noted otherwise, all carriers have a Best Guide rating of A- or better.

In order to offer you choices, our agency maintains relationships with a number of insurance companies. Most of these companies pay our agency a commission when we place coverage with them. Some companies issue policies on a net basis to us, and we, in turn, will charge you an agency fee. Some companies do pay our agency a contingency commission at the end of the calendar year if the group of insurance customers placed with that company have been profitable. Such an arrangement is an incentive for our agency to work with you to prevent losses as well as send profitable business to insurance carriers.

Our relationship with you is based on trust and we do our best to make no representation that would mislead anyone about any aspect of the products or services that we offer.

We value your trust and have always held it in the highest regard; therefore, we will continue to do all that we can to fully represent you in the insurance market place.

*Ramsey, Krug, Farrell & Lensing*

8315 Cantrell Rd. · P. O. Box 251510 · Little Rock, AR 72225 · 501-664-7705 · Fax 501-664-8052 · [www.bxsi.com](http://www.bxsi.com)



**BancorpSouth**

Insurance Services, Inc.

## School Board Legal Liability Employment Practices Liability

**Insurer:** ACE American Insurance Company  
AM Best's rating: A+ XV

**Policy Term:** 2/1/2016 to 2/1/2017

**Annual Premium:** \$10770  
**Included** General Liability Coverage

Coverage	Limit
Liability Limit per Occurrence	\$1,000,000
Liability Limit – Aggregate	\$1,000,000
Shared Limits – Yes or No	Yes
Retention – Educators Legal Liability	\$5000
Retention – Employment Practices Liability	\$10000
Claims Made	Yes
Retroactive Date	Full prior acts
Prior Acts	Yes
Duty to Defend	Yes
Dollar One Defense	Yes
Defense Inside or Outside Limit	Outside
Sexual Molestation – Defense Only	\$ 25,000 Sub-limit
Corporal Punishment – Defense Only	\$100,000 Sub-limit
Bullying Exclusion – Defense Only	\$ 50,000 Sub-limit
Breach of Fiduciary Liability Claims – Defense Only	\$ 25,000 Sub-limit
Coverage for Breach of Commercial Contract – Defense Only	Yes
Coverage for claim for failure to maintain Insurance – Defense Only	Yes
Personal Liability Coverage for Insured Educators	Yes
Full Severability for "Insured Persons"	Yes
Punitive Damages Coverage	Yes
Modified Settlement Provision	Yes – 50%
Insured Right to Settle all Claims that fall within the Retention	Yes
Terrorism	No

This is only a brief summary, not a contract. Please see policy for full details, limitations and exclusions.

*Ramsey, Krug, Farrell & Lensing*

8315 Cantrell Rd. • P. O. Box 251510 • Little Rock, AR 72225 • 501-664-7705 • Fax 501-664-8052 • www.bxsi.com



**BancorpSouth**<sup>®</sup>

Insurance Services, Inc.

## **Additional Terms and Conditions:**

### **Educational Institution Liability:**

- **Professional Liability coverage for the District and the officials and employees in performance of duties**
  - **Negligent Career or academic counseling**
  - **Failure to Educate**
  - **Wrongful Dismissal of academic/disciplinary grounds**
  - **Discrimination in financial aid grants**
  - **Employed professional coverage for lawyers**
- **The multiple portion of any multiplied damage award**
- **Expanded Definition of "Insured Person"**
- **No Claims Expense Sub-limits for Claims related to Special Needs/IEP Hearings or Desegregation**

### **Employment Practices Liability**

- **Extended EPL coverage for:**
  - **Mental distress, injury, anguish, or tension**
  - **Pain and suffering**
  - **Shock and humiliation, and**
  - **Libel, slander or defamation in any form**
- **Third Party liability arising out of discrimination or harassment of non-employees by employees**
- **Front and back pay**
- **Liquidated damages awarded pursuant to the ADEA or Equal Pay Amendment**

### **Actual Access to services for Employment Practices resources**

- **Toll-Free or Email Employment Practices Assist hotline**
- **Online Resource Website**
- **Monthly HR Express Updates and HR Alerts**
- **Timely Blogs and Webinars**

### **Claim Advocacy and Monitoring**

- **Panel Counsel - Updated List will be provided in February**
- **Large claim review**
- **Litigation Management Plans**

### **General Liability Coverage underwritten by Cincinnati Specialty Insurance Company**

- **\$1,000,000 Limit of Liability – Occurrence and Aggregate**
- **Policy Territory – All States except Arkansas**
- **Deductible - \$2500 per occurrence – Bodily Injury and Property Damage**

This is only a brief summary, not a contract. Please see policy for full details, limitations and exclusions.

*Ramsey, Krug, Farrell & Lensing*

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**BancorpSouth**

Insurance Services, Inc.

**SCHOOL BOARD LEGAL LIABILITY  
EMPLOYMENT PRACTICES LIABILITY**

Effective 02-01-2016 to 2-01-2017

**Mountain Home School District**

**RENEWAL ELECTION**

Please Mark Your Renewal Preference

- \_\_\_\_\_ Renew our School Board / Educators Legal Liability Policy
- \_\_\_\_\_ Include General Liability Endorsement
- \_\_\_\_\_ Do Not Renew our School Board / Educators Legal Liability Policy
- 

Upon receipt of your renewal election, an invoice will be sent to your district.

Premium is due and payable before February 1, 2016

---

**PLEASE COMPLETE AND RETURN THIS FORM**

Signed: \_\_\_\_\_,

Print Name and Title: \_\_\_\_\_,

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

Email or Fax Completed Form to:  
BancorpSouth Insurance Services

FAX: 501-664-8052

Email: [Bill.Birch@bxsi.com](mailto:Bill.Birch@bxsi.com) or  
[Carol.Cook@bxsi.com](mailto:Carol.Cook@bxsi.com)

*Ramsey, Krug, Farrell & Lensing*

8315 Cantrell Rd. · P. O. Box 251510 · Little Rock, AR 72225 · 501-664-7705 · Fax 501-664-8052 · [www.bxsi.com](http://www.bxsi.com)



**BancorpSouth**

Insurance Services, Inc.



insured.

ACE USA  
1133 Avenue of the Americas  
32<sup>nd</sup> Floor  
New York, NY 10038

Thank you for purchasing your Employment Practice Liability (EPL) with ACE. Employers today face a dizzying array of employment laws, regulations and ongoing employment issues. The failure to comply with the ever-changing legal requirements can have a devastating impact on employee morale and the company's bottom line. In order to provide an innovative risk management tool to help policyholders manage employment practices risk and provide access to industry experts, ACE partnered with the nation's foremost employment and labor law firm, Littler Mendelson (Littler), to create a cutting edge employment practices risk management tool for ACE insureds called EPL Assist™. With over 975 attorneys in 56 offices, Littler has both the expertise and the capacity to handle any employment matter, and policyholders have an unlimited ability to obtain expert advice and counsel as part of the program.

**EPL Policyholders are provided:**

- No cost, online and live access to the legal experts at Littler, the largest employment and labor firm in the U.S., via a secure website or by calling 888-244-3844
- Online sexual harassment training, which complies with California AB 1625
- A compendium of online employment law resources through EPL Assist™, including unlimited access to such content as:
  - \* Employment policies and practices
  - Human Resources forms library, including hiring and termination agreements
  - Sample employee handbooks, including supplement information for all 50 states
  - State and national employment law summaries and reference materials
  - \* 50 state surveys on various employment law essentials, including such things as minimum wage and overtime requirements, protected classifications, new hire reporting requirements, meal and rest break requirements and voting rights requirements
  - \* Employment law updates, newsletters and related publications
  - Complimentary registration to Littler's nationwide breakfast briefing series
  - Complimentary access to Littler's webinars and podcasts
  - Discounted rates for various Littler events

If you have not already received your username, please visit [www.EPLAssist.com](http://www.EPLAssist.com) and click on "Request an Account," or contact your insurance broker. For general questions about the program, please send an email to [eplassist@acegroup.com](mailto:eplassist@acegroup.com) or [dmbrown@littler.com](mailto:dmbrown@littler.com). Please note that access to EPL Assist™ is private and secure. Do not share access instructions with anyone outside your organization. EPL Assist™ is for ACE clients only.

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## Mountain Home Public Schools

1309 South College  
Mountain Home, AR 72653  
870-425-1255  
Fax 870-425-1303

Dr. Jake Long  
Superintendent

Mike Walker  
Director, Auxiliary Services

To: Mountain Home School Board

From: Dr. Jake Long; Mike Walker

Subject: Security Fencing

Date: January 15, 2016

Background: Increased security is needed to limit access to students at Mountain Home Jr. High and the Mountain Home High School.

Rationale: Fencing would provide improved securing to the campus and not allow access to student areas without first checking in with the office staff.

Recommendation: To install security fencing at the Jr. High and High School at a cost of \$24,449.86.

Contact Person(s): Mike Walker/Dr. Jake Long



# GREGORY COMPANY, INC. GENERAL CONTRACTORS

PO Box 710, Mountain Home, AR 72654  
(870) 425-7171 Fax: (870) 425-7175  
gci@gregoryco.net

	JR HIGH - HIGH SCHOOL FENCE	
	ITEM	TOTAL
<b><u>DIV. 1</u></b>	<b><u>GENERAL CONDITIONS</u></b>	
1500	PORTABLES	162.75
1705	GENERAL LABOR	1,200.00
<b><u>DIV. 5</u></b>	<b><u>METALS</u></b>	
5515	CHAIN LINK AND ORNAMENTAL FENCE	19,898.00
5525	GATE ARMS	5,380.00
		-----
		21,260.75
	TOTAL	
		0.15
		-----
	CONTRACTORS FEE	3,189.11
	TOTAL	24,449.86
1045	<b>BUILDING PERMIT</b>	-
1050	<b>BID BOND</b>	-
1745	<b>ENGINEERING</b>	-
		-----
	TOTAL BID	24,449.86
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