



AIA[®]

Document A102™ – 2007

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

AGREEMENT made as of the ____ day of _____ in the year 2016
(In words, indicate day, month and year)

BETWEEN the Owner and the Owner’s Representative:
(Name, address and other information)

City of North Augusta, SC (Owner)
P.O. Box 6400
100 Georgia Avenue
North Augusta, SC 29861-6400

Greenstone Development Services, LLC (Owner’s Representative)
3301 Windy Ridge Parkway, Suite 320
Atlanta, GA 30339

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

Brasfield & Gorrie, L.L.C.
3021 7th Avenue South
Birmingham, AL 35233

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

North Augusta Ballpark Development
City of North Augusta, SC

The Architect:
(Name, address and other information)

Odell Associates, Inc.
800 West Hill Street, Third Floor
Charlotte, NC 28208

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

This document is not intended for use in competitive bidding.

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

Init.

TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	RELATIONSHIP OF THE PARTIES
4	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
5	CONTRACT SUM
6	CHANGES IN THE WORK
7	COSTS TO BE REIMBURSED
8	COSTS NOT TO BE REIMBURSED
9	DISCOUNTS, REBATES AND REFUNDS
10	SUBCONTRACTS AND OTHER AGREEMENTS
11	ACCOUNTING RECORDS
12	PAYMENTS
13	DISPUTE RESOLUTION
14	TERMINATION OR SUSPENSION
15	MISCELLANEOUS PROVISIONS
16	ENUMERATION OF CONTRACT DOCUMENTS
17	INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following ranked order of precedence: Amendments or Modifications to the Agreement, Attachments to the Agreement, the General Conditions, Specifications, and Drawings, and then this Agreement.

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 RELATIONSHIP OF THE PARTIES

The Contractor accepts the mutual relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration 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

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consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 3.1 Owner's Representative's general responsibility hereunder as Owner's manager and director of oversight shall be to manage, supervise, and coordinate the planning, design, construction, and completion of the Project. Owner will contract directly for any services for which it bears direct financial responsibility.

ARTICLE 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 4.1 The date of commencement of the Work shall be as follows:

Commencement of the site work and miscellaneous procurement as set forth in Attachment E is projected to be March 25, 2016, but such work will not begin until ten (10) days after the last of the following is achieved:

1. Receipt of the executed contract by Contractor.
2. Receipt of a Limited Notice to Proceed in the amount of \$2,499,825.
3. Reasonable evidence has been provided to Contractor that financial arrangements have been made to fulfill the Owner's obligations under the Limited Notice to Proceed.

Commencement of the remaining Work is projected to be May 11, 2016, but such work will not begin until ten (10) days after the last of the following is achieved:

1. Receipt of a Full Notice to Proceed in the amount of \$25,511,213.
2. Reasonable evidence has been provided to Contractor that financial arrangements have been made to fulfill the Owner's obligations under the Full Notice to Proceed, including confirmation of any municipal bond issuance.
3. Owner has provided Contractor with evidence of ownership of the property upon which the Work is to be performed.
4. Permit is received for building construction.
5. Worksite is established free from hazardous materials.
6. Worksite is ready to allow unimpeded access to the Work by the Contractor.

In the event Owner fails to fulfill the conditions required to release Contractor to perform the Work by May 11, 2016, Contractor shall be entitled to an equitable adjustment in the Contract Sum and the Contract Time.

If, prior to commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

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

§ 4.3 The Contractor shall achieve Substantial Completion of the entire Work not later than Four Hundred and Twenty-Seven Days (427) days from the date of commencement, or as follows:
(Paragraphs deleted)

Portion of Work

Substantial Completion date

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time, or for bonus payments for early completion of the Work.)

Owner shall not be entitled to any damages, including liquidated damages, in the event Contractor fails to achieve Substantial Completion within the Contract Time.

ARTICLE 5 CONTRACT SUM

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

§ 5.1.1 The Contractor’s Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor’s Fee.)

3% of the Cost of Work, excluding Direct Purchase items by Owner.

§ 5.1.2 The method of adjustment of the Contractor’s Fee for changes in the Work:

Fee provided in 5.1.1 will apply to changes in the Work, whether change is add or deduct. 3% of the Cost of Work shall be used for fee on changes to the work.

§ 5.1.3 Limitations, if any on a Subcontractor’s overhead and profit for increases in the cost of its portion of the Work after 100% Construction Documents are provided and incorporated herein:

Subcontractor’s mark-up for additional material, labor, and cost incurred in performing additional Work shall not exceed the following: For Changes in the Work totaling less than \$5,000, Subcontractor shall be allowed actual cost up to 10% markup for Overhead and up to 10% markup for Profit. For Changes in the Work totaling more than \$5,000, Subcontractor shall be allowed actual cost up to 10% markup for Overhead and up to 5% markup for Profit.

§ 5.1.4 Rental rates for Contractor-owned equipment shall not exceed one hundred percent (100%) 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.)

See Attachment D for clarifications

Item	Units and Limitations	Price Per Unit
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§ 5.2 GUARANTEED MAXIMUM PRICE

§ 5.2.1 The Contract Sum is guaranteed by the Contractor not to exceed Twenty-Eight Million Eleven Thousand Thirty-Eight Dollars and 00/100 (\$28,011,038.00), subject to additions and deductions by Change Order as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

(Insert specific provisions if the Contractor is to participate in any savings.)

The Guaranteed Maximum Price is subject to adjustment for (i) scope changes, (ii) change orders authorized in accordance with the requirements of the Contract Documents, (iii) any Owner-caused delays, and (iv) and delays caused by weather or other force majeure conditions. The difference, upon Final Completion of the Work, between (i) the total aggregate sum of the Cost of the Work plus the Contractor’s Fee and (ii) the Guaranteed Maximum Price (such difference equals the Savings) shall be shared by the Owner and the Contractor as follows: Eighty Percent (80%) of such Savings shall inure to the benefit of the Owner and the remainder shall be paid to the Contractor as an additional fee. Cost which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

§ 5.2.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when the amount expires.)

Init.

§ 5.2.3 Allowances included in the Guaranteed Maximum Price, if any:
(Identify allowance and state exclusions, if any, from the allowance price.)

Item

Price

§ 5.2.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee or either, or of a separate contractor employed by the Owner, or by changes in the Work, Contractor shall be entitled to an equitable adjustment to the Contract Sum and Guaranteed Maximum Price and Contract Schedule.

If the Contractor is delayed more than ten (10) work-days, in the aggregate, by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the control of Owner or Contractor, Contractor shall be entitled to an equitable adjustment to the Contract Sum and Guaranteed Maximum Price.

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

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 Adjustments to the Guaranteed Maximum Price on account of changes in the Work may be determined by any of the methods listed in Section 7.3.3 of AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 6.2 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of AIA Document A201–2007 and the term "costs" as used in Section 7.3.7 of AIA Document A201–2007 shall have the meanings assigned to them in AIA Document A201–2007 and shall not be modified by Articles 5, 7 and 8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201–2007 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Contractor's Fee as defined in Section 5.1.1 of this Agreement.

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

ARTICLE 7 COSTS TO BE REIMBURSED

§ 7.1 COST OF THE WORK

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. 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. Some categories of Contractor's cost fluctuate and are difficult to determine conclusively by audit or other means, given the corporate framework of Contractor. For this reason, and to reduce the expense of the final audit and contract close-out, Owner and Contractor agree that certain items, specifically described below, will be charged as fixed rates or fixed percentages that approximate Contractor's actual costs. The Cost of the Work shall include only the items set forth in this Article 7.

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§ 7.1.2 Where any cost is subject to the Owner's prior approval, the Contractor shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing this Agreement.

§ 7.2 LABOR COSTS

§ 7.2.1 Wages of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops. Labor Burden shall be specified as applicable to Direct Personnel Expense (DPE) charged at a rate equal to 51.31%, which percentage shall cover Worker's Compensation Insurance, all payroll taxes, field bonuses, field employee health insurance, training and all other fringe benefits and costs. Subsistence rates, discretionary to Contractor, may also be paid to construction workers, in some cases, to cover travel and related costs. Special rates for field engineers and concrete finishers are charged, in addition to their Wages and Labor Burden, to cover special equipment needs.

§ 7.2.2 The following rates shall be charged for management, estimating, supervisory and administrative personnel for time spent by each individual working on the Project at the jobsite, jobsite office, home office or other offices:

a. Regional Vice President	\$ 150 / Hour
b. Regional Preconstruction Director	\$ 150 / Hour
c. Senior General Superintendent	\$ 150 / Hour
d. Senior Superintendent	\$ 120 / Hour
e. Superintendent	\$ 110 / Hour
f. Assistant Superintendent	\$ 90 / Hour
g. Assistant Field Manager	\$ 80 / Hour
h. Division Manager	\$ 140 / Hour
i. Operations Manager	\$ 125 / Hour
j. Senior Project Manager	\$ 110 / Hour
k. Project Manager II	\$ 95 / Hour
l. Project Manager I	\$ 85 / Hour
m. Assistant Project Manager	\$ 70 / Hour
n. Chief Estimator	\$ 115 / Hour
o. Senior Estimator	\$ 100 / Hour
p. Estimator II	\$ 85 / Hour
q. Estimator I	\$ 75 / Hour
r. Project Management - Administrative Assistant	\$ 50 / Hour
s. Estimating - Administrative Assistant	\$ 50 / Hour
t. Regional Accountant/Subcontractor Document Coordinator	\$ 45 / Hour
u. Project Accountant	\$ 50 / Hour

The rates provided above represent the total payment by Owner for each individual regardless of fluctuations in Contractor's actual cost. The rates include salary or wages, training, insurance, vacation and all other fringe benefits. The above rates have been established by the mutual agreement of Contractor and Owner and will apply throughout the Project, provided that Contractor will be allowed to increase the rates annually each January 1st by five percent (5%). If Contractor is required to relocate an individual to work on Owner's Project, Owner agrees to reimburse Contractor the reasonable relocation cost or subsistence expense.

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

§ 7.2.4 Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments, and benefits required by law or collective bargaining agreements and, for persons not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, will not be separately charged but are included in the Labor Burden for hourly construction workers and the rates charged for management, supervisory and administrative personnel.

§ 7.2.5 Incentive compensation and any other discretionary payments paid to any Subcontractor or vendor, with the Owner's prior approval.

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§ 7.3 SUBCONTRACT COSTS

Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts. Owner's audit of Contractor's final accounting of Subcontract Costs, pursuant to Articles 11 and 12, shall be for the purpose of determining that the Subcontract Costs were in fact paid by Contractor to Subcontractors in the performance of the Work. Subcontractors' costs of performance shall not be subject to audit unless incurred pursuant to a cost-plus subcontract which expressly provides that the subcontractor's costs may be audited by Owner.

§ 7.4 COSTS OF MATERIALS AND EQUIPMENT INCORPORATED IN THE COMPLETED CONSTRUCTION

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

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 COSTS OF OTHER MATERIALS AND EQUIPMENT, TEMPORARY FACILITIES AND RELATED ITEMS

§ 7.5.1 Costs, including 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 Contractor at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Contractor shall mean fair market value.

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

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

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

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

§ 7.6 MISCELLANEOUS COSTS

§ 7.6.1 That portion of bond premiums, insurance premiums and loss funding that can be directly attributed to this Contract for coverages and limits at a minimum required by Article 11 of the AIA 201-2007, as modified. Owner acknowledges that Contractor may utilize large deductible and/or retention insurance policies and shall charge to Owner an amount to fund for expected losses which are included in the rate established in this section. The final Contract Sum and Guaranteed Maximum Price will include a fixed charge equal to 1.2% of the final amount otherwise payable by Owner to cover Contractor's cost of all liability insurance, umbrella insurance, risk management and Corporate Safety Programs. Such charge will be deemed to include all liability insurance premiums inclusive of deductibles, risk management expenses, plus Contractor's costs associated with Corporate Safety Engineer inspections, travel, meals, lodging, incentives, bonus programs and training. Bond premium and Builder's Risk policies inclusive of deductibles shall be charged at actual cost.

The Contractor shall implement a Subcontractor Default Protection (SDP) Program, which shall be reimbursable at 1.2% of the total subcontract and purchase order value, including change orders and owner-provided materials. The Contractor may, in its sole discretion, procure payment and performance bonds, enroll the subcontractor in a default insurance program, or self-insure the risk. The SDP charge will be included in the GMP for the Project.

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

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

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded 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 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; 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 Contractor resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Contractor's Fee or subject to the Guaranteed Maximum Price. 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.

§ 7.6.6 Meals involving representatives of Contractor and subcontractors, Owner or design professionals, where Contractor documents the purpose of the meeting and the attendees; soft drinks, bottled water, refrigerator, paper towels, toiletries, and other incidentals in the project trailer; Contractor's signage at the construction site; rates for deployment and maintenance of computer hardware and software and software licenses utilized for the Project; any sales tax bond, business license, notices, and expediting of permits required for the Project.

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

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

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

§ 7.6.10 The final Contract sum and Guaranteed Maximum Price will include a warranty reserve equal to 0.25% of all amounts otherwise payable by Owner to Contractor. Contractor shall charge its actual cost to this reserve, and any savings accruing in this reserve at the end of the warranty period will be distributed according to the Savings provisions of this agreement.

§ 7.6.11 Any other cost in the schedule of values not otherwise included.

§ 7.7 OTHER COSTS AND EMERGENCIES

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

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

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

§ 7.8 RELATED PARTY TRANSACTIONS

§ 7.8.1 For purposes of Section 7.8, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Contractor; any entity in which any stockholder in, or management employee of, the Contractor owns any interest in excess of ten percent in the aggregate; or any person

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or entity which has the right to control the business or affairs of the Contractor. The term "related party" includes any member of the immediate family of any person identified above.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Article 10. If the Owner fails to authorize the transaction, the Contractor shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Article 10.

§ 7.8.3 Owner acknowledges that Contractor will be allowed to purchase material, rent equipment, and procure services from B&G Equipment & Supply Company, a wholly owned subsidiary of Brasfield & Gorrie, LLC. HRA Risk Services is a related party that may serve as an agent in bonding and insurance transactions.

ARTICLE 8 COSTS NOT TO BE REIMBURSED

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

- .1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Section 7.2. or as may be provided in Article 15;
- .2 Expenses of the Contractor's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Article 7;
- .4 The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work;
- .5 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence or failure of the Contractor, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Article 7; and
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

ARTICLE 9 DISCOUNTS, REBATES AND REFUNDS

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

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

ARTICLE 10 SUBCONTRACTS AND OTHER AGREEMENTS

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

§ 10.2 When a specific bidder (1) is recommended to the Owner by the Contractor; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Contractor may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of

the person or entity recommended to the Owner by the Contractor and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

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

§ 10.4 Except as otherwise agreed in writing by both parties hereto, the contractor must competitively bid any trade Work that the Contractor wishes to perform with the Contractor's own fares through an Affiliate as defined in Article 7.8.1, and shall obtain no less than two (2) additional responsive bids from responsible Subcontractors. The Contractor, or an Affiliate, shall be permitted to perform such trade Work upon the Owner's approval. Any trade Work performed by the Contractor's own forces or by an Affiliate shall be paid for and accounted for as though that Work were performed by a Subcontractor under the terms of this Agreement.

ARTICLE 11 ACCOUNTING RECORDS

The Contractor 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 Contractor'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 Contractor shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. The provisions of this Article 11 shall apply to all costs reimbursable as Cost of the Work except for those costs covered by specific rates, percentages or changes set forth in Article 7.

ARTICLE 12 PAYMENTS

§ 12.1 PROGRESS PAYMENTS

§ 12.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents. The Architect will certify the Application for Payment, while the Owner and/or Owner's Representative will approve, subject to any required adjustments, the actual payment amounts,

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

§ 12.1.3 Provided that an Application for Payment is received by the Architect not later than the 1st day of a month, the Owner shall make payment to the Contractor not later than the 25th 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 fifteen (25) days after the Architect receives the Application for Payment.

§ 12.1.4 In conjunction with each Application for Payment, the Contractor shall submit Contractor's Interim Lien Waiver and Release and Interim Claim Waiver form. Based upon Applications for Payment and all supporting documentation as required by the Contracts submitted to the Owner and the Architect by the Contractor and Certificates for Payment issued by the Owner, the Owner shall make progress payments on the account of the Contractor as provided below and elsewhere in the Contract Documents. During and at the completion of the Project the Contractor shall have available for the Owner's review in the Contractor's main office upon the Owner's request, detailed material as Owner may reasonably request to support the actual costs, which shall include, but not be limited to the following: a) copies of original payrolls; b) invoices for material and services; c) records of payment for reimbursable costs; d) Subcontractor billings, Interim Lien Waivers and Releases and Interim Claim Waivers and Releases in the form attached as Exhibit "K", payment requests and payment information; and e) all other documentation required by Owner and Lender.

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§ 12.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Contractor's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 12.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

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

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201–2007;
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Contractor's Fee, less retainage of Ten percent (10%) until fifty percent (50%) of the Contract Value is complete, and zero percent (0%) retainage for the remaining Contract Value, such that the total retainage is five percent (5%) of the Contract Value. The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 12.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.

§ 12.1.8 Except with the Owner's prior approval, payments to Subcontractors shall be subject to retainage. The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments retention for Subcontractors.

§ 12.1.9 In taking action on the Contractor's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 12.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 12.2 FINAL PAYMENT

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

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

§ 12.2.2 The Owner's auditors will review and report in writing on the Contractor's final accounting within 30 days after delivery of the final accounting to the Architect by the Contractor. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Contractor's final accounting, and provided the other conditions of Section 12.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201–2007. The time periods stated in this Section 12.2.2 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 Contractor's final accounting.

.1 In performing their review of Contractor's final accounting, Owner's auditors may perform an audit sampling of Contractor's costs to verify that appropriate accounting and control systems were implemented by the Contractor. Certain provisions of Article 7 reflect the agreement of Owner and Contractor to fixed rates, percentages or charges to be included in the Cost of the Work. Owner and Contractor agree that the rates, percentages or charges set forth in this Agreement are reasonable and appropriate as a reimbursable job cost included in the Cost of the Work. For any audit sampling performed by Owner's auditors, its auditors shall verify whether the rates, percentages or charges contained in the Contractor's final accounting and application for payment are the rates, percentages or charges set forth in this Agreement. Unless Owner's auditors demonstrate that they have discovered significant irregularities in the course of their review of Contractor's final accounting, their review will be deemed complete thirty (30) days after delivery of the final accounting to the Architect by Contractor.

§ 12.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Contractor's final accounting to be less than claimed by the Contractor, the Contractor 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 Contractor within 30 days after the Contractor'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 Contractor. Pending a final resolution of the disputed amount, the Owner shall pay the Contractor the amount certified in the Architect's final Certificate for Payment.

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

§ 12.2.5 If, subsequent to final payment and at the Owner's request, the Contractor incurs costs described in Article 7 and not excluded by Article 8 to correct defective or nonconforming Work, the Owner shall reimburse the Contractor such costs and the Contractor's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Contractor has participated in savings as provided in Section 5.2, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Contractor.

Final payment shall be issued upon the completion of the Building according to the terms herein and it has been inspected and approved by the authorities having jurisdiction, and the Architect.

ARTICLE 13 DISPUTE RESOLUTION

§ 13.1 INITIAL DECISION MAKER

The Owner or Owner's Representative will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007, unless the parties appoint below another individual, not a party to the Agreement, to serve as 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.)

Mutually agreed upon mediator

§ 13.2 BINDING DISPUTE RESOLUTION

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

Arbitration pursuant to Section 15.4 of AIA Document A201–2007

Litigation in a court of competent jurisdiction

Other (Specify)

ARTICLE 14 TERMINATION OR SUSPENSION

§ 14.1 Subject to the provisions of Section 14.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2007.

§ 14.2 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2007, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A201–2007 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor'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 Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work 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.

§ 14.3 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 14.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 14, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 14.4 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Sections 5.1.1 and Section 6.4 of this Agreement.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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

Five Percent (5%)

Init.

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User Notes:

(1651862376)

10% per annum

§ 15.3 The Owner or Owner's representative:

Todd Glover (Owner)
City of North Augusta, SC
P.O. Box 6400
100 Georgia Avenue
North Augusta, SC 29861-6400

Chris Schoen or James Dean (Owner's Representative)
Greenstone Development Services, LLC.
3301 Windy Ridge Parkway, Suite 320
Atlanta, GA 30339

§ 15.4 The Contractor's representative:
(Name, address and other information.)

Juan Carlos Ospina
Brasfield & Gorrie, L.L.C.
3021 7th Avenue South
Birmingham, AL 35233

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

§ 15.6 Other provisions:

ARTICLE 16 ENUMERATION OF CONTRACT DOCUMENTS

§ 16.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 16.1.1 The Agreement is this executed AIA Document A201-2007, Standard Form of Agreement Between Owner and Contractor.

§ 16.1.2 The General Conditions are AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 16.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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§ 16.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Title of Specifications exhibit: Attachment A
(Table deleted)

§ 16.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Title of Drawings exhibit: Attachment A
(Table deleted)

§ 16.1.6 The Addenda, if any:

Init.

Number

Date

Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 16.

§ 16.1.7 Additional documents, if any, forming part of the Contract Documents:

.1

(Paragraphs deleted)

Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor’s bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

- A. Attachment A – Drawing & Specification Log
- B. Attachment B – Sitework Limits for Ballpark
- C. Attachment C – Sitework Scope Clarification Matrix
- D. Attachment D – Clarifications
- E. Attachment E – Schedule of Values
- F. Attachment F – Project Schedule
- G. Attachment G – VA Log

ARTICLE 17 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and 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)

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

OWNER (Signature)

CONTRACTOR (Signature)

(Printed name and title)

Juan Carlos Ospina, Vice President

(Printed name and title)

Init.

Additions and Deletions Report for AIA[®] Document A102[™] – 2007

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:34:50 on 03/17/2016.

PAGE 1

AGREEMENT made as of the ___ day of _____ in the year 2016
(In words, indicate day, month and ~~year~~ year)

BETWEEN ~~the Owner~~ the Owner and the Owner's Representative:
(Name, ~~legal status~~, address and other information)

City of North Augusta, SC (Owner)
P.O. Box 6400
100 Georgia Avenue
North Augusta, SC 29861-6400

Greenstone Development Services, LLC (Owner's Representative)
3301 Windy Ridge Parkway, Suite 320
Atlanta, GA 30339

(Name, ~~legal status~~, address and other information)

Brasfield & Gorrie, L.L.C.
3021 7th Avenue South
Birmingham, AL 35233

...

(Name, ~~location~~ location, and detailed description)

North Augusta Ballpark Development
City of North Augusta, SC

...

(Name, ~~legal status~~, address and other information)

Odell Associates, Inc.
800 West Hill Street, Third Floor
Charlotte, NC 28208

PAGE 2

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed

in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. ~~If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.~~In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following ranked order of precedence: Amendments or Modifications to the Agreement, Attachments to the Agreement, the General Conditions, Specifications, and Drawings, and then this Agreement.

...

The Contractor accepts the mutual relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration 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 and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

§ 3.1 Owner's Representative's general responsibility hereunder as Owner's manager and director of oversight shall be to manage, supervise, and coordinate the planning, design, construction, and completion of the Project. Owner will contract directly for any services for which it bears direct financial responsibility.

PAGE 3

§ 4.1 The date of commencement of the Work shall be ~~the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner as follows:~~

Commencement of the site work and miscellaneous procurement as set forth in Attachment E is projected to be March 25, 2016, but such work will not begin until ten (10) days after the last of the following is achieved:

1. Receipt of the executed contract by Contractor.
2. Receipt of a Limited Notice to Proceed in the amount of \$2,499,825.
3. Reasonable evidence has been provided to Contractor that financial arrangements have been made to fulfill the Owner's obligations under the Limited Notice to Proceed.

Commencement of the remaining Work is projected to be May 11, 2016, but such work will not begin until ten (10) days after the last of the following is achieved:

1. Receipt of a Full Notice to Proceed in the amount of \$25,511,213.
~~(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)~~
2. Reasonable evidence has been provided to Contractor that financial arrangements have been made to fulfill the Owner's obligations under the Full Notice to Proceed, including confirmation of any municipal bond issuance.
3. Owner has provided Contractor with evidence of ownership of the property upon which the Work is to be performed.
4. Permit is received for building construction.
5. Worksite is established free from hazardous materials.
6. Worksite is ready to allow unimpeded access to the Work by the Contractor.

In the event Owner fails to fulfill the conditions required to release Contractor to perform the Work by May 11, 2016, Contractor shall be entitled to an equitable adjustment in the Contract Sum and the Contract Time.

...

§ 4.3 The Contractor shall achieve Substantial Completion of the entire Work not later than ~~(—~~Four Hundred and Twenty-Seven Days (427) days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

...

Owner shall not be entitled to any damages, including liquidated damages, in the event Contractor fails to achieve Substantial Completion within the Contract Time.

PAGE 4

3% of the Cost of Work, excluding Direct Purchase items by Owner.

...

Fee provided in 5.1.1 will apply to changes in the Work, whether change is add or deduct. 3% of the Cost of Work shall be used for fee on changes to the work.

§ 5.1.3 Limitations, if any, any on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work after 100% Construction Documents are provided and incorporated herein:

Subcontractor's mark-up for additional material, labor, and cost incurred in performing additional Work shall not exceed the following: For Changes in the Work totaling less than \$5,000, Subcontractor shall be allowed actual cost up to 10% markup for Overhead and up to 10% markup for Profit. For Changes in the Work totaling more than \$5,000, Subcontractor shall be allowed actual cost up to 10% markup for Overhead and up to 5% markup for Profit.

§ 5.1.4 Rental rates for Contractor-owned equipment shall not exceed one hundred percent (~~%~~ 100%) of the standard rate paid at the place of the Project.

...

See Attachment D for clarifications

Item	Units and Limitations	Price Per Unit (\$0.00)
------	-----------------------	--------------------------------------

...

§ 5.2.1 The Contract Sum is guaranteed by the Contractor not to exceed (~~\$~~), ~~Twenty-Eight Million Eleven Thousand Thirty-Eight Dollars and 00/100 (\$28,011,038.00)~~, subject to additions and deductions by Change Order as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

...

The Guaranteed Maximum Price is subject to adjustment for (i) scope changes, (ii) change orders authorized in accordance with the requirements of the Contract Documents, (iii) any Owner-caused delays, and (iv) and delays caused by weather or other force majeure conditions. The difference, upon Final Completion of the Work, between (i) the total aggregate sum of the Cost of the Work plus the Contractor's Fee and (ii) the Guaranteed Maximum Price (such difference equals the Savings) shall be shared by the Owner and the Contractor as follows: Eighty Percent (80%) of such Savings shall inure to the benefit of the Owner and the remainder shall be paid to the Contractor as an additional fee. Cost which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

PAGE 5

If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee or either, or of a separate contractor employed by the Owner, or by changes in the Work, Contractor shall be entitled to an equitable adjustment to the Contract Sum and Guaranteed Maximum Price and Contract Schedule.

If the Contractor is delayed more than ten (10) work-days, in the aggregate, by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the control of Owner or Contractor, Contractor shall be entitled to an equitable adjustment to the Contract Sum and Guaranteed Maximum Price.

...

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Contractor 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. Some categories of Contractor's cost fluctuate and are difficult to determine conclusively by audit or other means, given the corporate framework of Contractor. For this reason, and to reduce the expense of the final audit and contract close-out, Owner and Contractor agree that certain items, specifically described below, will be charged as fixed rates or fixed percentages that approximate Contractor's actual costs. The Cost of the Work shall include only the items set forth in this Article 7.

PAGE 6

§ 7.2.1 Wages of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops. Labor Burden shall be specified as applicable to Direct Personnel Expense (DPE) charged at a rate equal to 51.31%, which percentage shall cover Worker's Compensation Insurance, all payroll taxes, field bonuses, field employee health insurance, training and all other fringe benefits and costs. Subsistence rates, discretionary to Contractor, may also be paid to construction workers, in some cases, to cover travel and related costs. Special rates for field engineers and concrete finishers are charged, in addition to their Wages and Labor Burden, to cover special equipment needs.

§ 7.2.2 Wages or salaries of the Contractor's supervisory and administrative personnel when stationed at the site with the Owner's prior approval. The following rates shall be charged for management, estimating, supervisory and administrative personnel for time spent by each individual working on the Project at the jobsite, jobsite office, home office or other offices:

a. Regional Vice President	\$ 150 / Hour
b. Regional Preconstruction Director	\$ 150 / Hour
c. Senior General Superintendent	\$ 150 / Hour
d. Senior Superintendent	\$ 120 / Hour
e. Superintendent	\$ 110 / Hour
f. Assistant Superintendent	\$ 90 / Hour
g. Assistant Field Manager	\$ 80 / Hour
h. Division Manager	\$ 140 / Hour
i. Operations Manager	\$ 125 / Hour
j. Senior Project Manager	\$ 110 / Hour
k. Project Manager II	\$ 95 / Hour
l. Project Manager I	\$ 85 / Hour
m. Assistant Project Manager	\$ 70 / Hour
n. Chief Estimator	\$ 115 / Hour
o. Senior Estimator	\$ 100 / Hour
p. Estimator II	\$ 85 / Hour
q. Estimator I	\$ 75 / Hour
r. Project Management - Administrative Assistant	\$ 50 / Hour
s. Estimating – Administrative Assistant	\$ 50 / Hour
t. Regional Accountant/Subcontractor Document Coordinator	\$ 45 / Hour
u. Project Accountant	\$ 50 / Hour

~~(If it is intended that the wages or salaries of certain personnel stationed at the Contractor's principal or other offices shall be included in the Cost of the Work, identify in Article 15, 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.)~~ The rates provided above represent the total payment by Owner for each individual regardless of fluctuations in Contractor's actual cost. The rates include salary or wages, training, insurance, vacation and all other fringe benefits. The above rates have been established by the mutual agreement of Contractor and Owner and will apply throughout the Project, provided that Contractor will be allowed to increase the rates annually each January 1st by five percent (5%). If Contractor is required to relocate an individual to work on Owner's Project, Owner agrees to reimburse Contractor the reasonable relocation cost or subsistence expense.

...

§ 7.2.4 ~~Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments~~ Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments, and benefits required by law or collective bargaining agreements and, for ~~personnel~~ persons 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 7.2.1 through 7.2.3, will not be separately charged but are included in the Labor Burden for hourly construction workers and the rates charged for management, supervisory and administrative personnel.

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

PAGE 7

Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts. Owner's audit of Contractor's final accounting of Subcontract Costs, pursuant to Articles 11 and 12, shall be for the purpose of determining that the Subcontract Costs were in fact paid by Contractor to Subcontractors in the performance of the Work. Subcontractors' costs of performance shall not be subject to audit unless incurred pursuant to a cost-plus subcontract which expressly provides that the subcontractor's costs may be audited by Owner.

...

§ 7.5.1 ~~Costs of transportation, Costs, including transportation~~ Costs, including 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 Contractor at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Contractor shall mean fair market value.

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

...

§ 7.6.1 ~~Premiums for that portion of insurance and bonds required by the Contract Documents~~ That portion of bond premiums, insurance premiums and loss funding 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. Contract for coverages and limits at a minimum required by Article 11 of the AIA 201-2007, as modified. Owner acknowledges that Contractor may utilize large deductible and/or retention insurance policies and shall charge to Owner an amount to fund for expected losses which are included in the rate established in this section. The final Contract Sum and Guaranteed Maximum Price will include a fixed charge equal to 1.2% of the final amount otherwise payable by Owner to cover Contractor's cost of all liability insurance, umbrella insurance, risk

management and Corporate Safety Programs. Such charge will be deemed to include all liability insurance premiums inclusive of deductibles, risk management expenses, plus Contractor's costs associated with Corporate Safety Engineer inspections, travel, meals, lodging, incentives, bonus programs and training. Bond premium and Builder's Risk policies inclusive of deductibles shall be charged at actual cost.

The Contractor shall implement a Subcontractor Default Protection (SDP) Program, which shall be reimbursable at 1.2% of the total subcontract and purchase order value, including change orders and owner-provided materials. The Contractor may, in its sole discretion, procure payment and performance bonds, enroll the subcontractor in a default insurance program, or self-insure the risk. The SDP charge will be included in the GMP for the Project.

PAGE 8

§ 7.6.6 ~~Costs for electronic equipment and software, directly related to the Work with the Owner's prior approval.~~ Meals involving representatives of Contractor and subcontractors, Owner or design professionals, where Contractor documents the purpose of the meeting and the attendees; soft drinks, bottled water, refrigerator, paper towels, toiletries, and other incidentals in the project trailer; Contractor's signage at the construction site; rates for deployment and maintenance of computer hardware and software and software licenses utilized for the Project; any sales tax bond, business license, notices, and expediting of permits required for the Project.

...

§ 7.6.10 ~~That portion of the reasonable expenses of the Contractor's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.~~ The final Contract sum and Guaranteed Maximum Price will include a warranty reserve equal to 0.25% of all amounts otherwise payable by Owner to Contractor. Contractor shall charge its actual cost to this reserve, and any savings accruing in this reserve at the end of the warranty period will be distributed according to the Savings provisions of this agreement.

§ 7.6.11 Any other cost in the schedule of values not otherwise included.

PAGE 9

§ 7.8.3 Owner acknowledges that Contractor will be allowed to purchase material, rent equipment, and procure services from B&G Equipment & Supply Company, a wholly owned subsidiary of Brasfield & Gorrie, LLC. HRA Risk Services is a related party that may serve as an agent in bonding and insurance transactions.

PAGE 10

§ 10.4 Except as otherwise agreed in writing by both parties hereto, the contractor must competitively bid any trade Work that the Contractor wishes to perform with the Contractor's own fares through an Affiliate as defined in Article 7.8.1, and shall obtain no less than two (2) additional responsive bids from responsible Subcontractors. The Contractor, or an Affiliate, shall be permitted to perform such trade Work upon the Owner's approval. Any trade Work performed by the Contractor's own forces or by an Affiliate shall be paid for and accounted for as though that Work were performed by a Subcontractor under the terms of this Agreement.

The Contractor 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 Contractor'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 Contractor shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. The provisions of this Article 11 shall apply to all costs reimbursable as Cost of the Work except for those costs covered by specific rates, percentages or changes set forth in Article 7.

...

§ 12.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents. The Architect will certify the Application for Payment, while the Owner and/or Owner's Representative will approve, subject to any required adjustments, the actual payment amounts.

...

§ 12.1.3 Provided that an Application for Payment is received by the Architect not later than the 1st day of a month, the Owner shall make payment ~~of the certified amount~~ to the Contractor not later than the 25th 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 ~~(—)~~ fifteen (25) days after the Architect receives the Application for Payment.

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

§ 12.1.4 ~~With~~ In conjunction with each Application for Payment, the Contractor 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 Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment. ~~Contractor's Interim Lien Waiver and Release and Interim Claim Waiver form.~~ Based upon Applications for Payment and all supporting documentation as required by the Contracts submitted to the Owner and the Architect by the Contractor and Certificates for Payment issued by the Owner, the Owner shall make progress payments on the account of the Contractor as provided below and elsewhere in the Contract Documents. During and at the completion of the Project the Contractor shall have available for the Owner's review in the Contractor's main office upon the Owner's request, detailed material as Owner may reasonably request to support the actual costs, which shall include, but not be limited to the following: a) copies of original payrolls; b) invoices for material and services; c) records of payment for reimbursable costs; d) Subcontractor billings, Interim Lien Waivers and Releases and Interim Claim Waivers and Releases in the form attached as Exhibit "K", payment requests and payment information; and e) all other documentation required by Owner and Lender.

PAGE 11

- .3 Add the Contractor's Fee, less retainage of ~~percent (—%)~~. The Ten percent (10%) until fifty percent (50%) of the Contract Value is complete, and zero percent (0%) retainage for the remaining Contract Value, such that the total retainage is five percent (5%) of the Contract Value. The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 ~~Subtract retainage of — percent (—%) from that portion of the Work that the Contractor self performs;~~
- .5 ~~Subtract the aggregate of previous payments made by the Owner;~~
- .6 ~~Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 12.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- .7 ~~Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.~~

§ 12.1.8 Except with the Owner's prior approval, payments to Subcontractors shall be subject to retainage. The Owner and the Contractor shall agree upon a (4) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements. ~~retention for Subcontractors.~~

PAGE 12

.1 In performing their review of Contractor's final accounting, Owner's auditors may perform an audit sampling of Contractor's costs to verify that appropriate accounting and control systems were implemented by the Contractor. Certain provisions of Article 7 reflect the agreement of Owner and Contractor to fixed rates, percentages or charges to be included in the Cost of the Work. Owner and Contractor agree that the rates, percentages or charges set forth in this Agreement are reasonable and appropriate as a reimbursable job cost included in the Cost of the Work. For any audit sampling performed by Owner's auditors, its auditors shall verify whether the rates, percentages or charges contained in the Contractor's final accounting and application for payment are the rates, percentages or charges set forth in this Agreement. Unless Owner's auditors demonstrate that they have discovered significant irregularities in the course of their review of Contractor's final accounting, their review will be deemed complete thirty (30) days after delivery of the final accounting to the Architect by Contractor.

...

Final payment shall be issued upon the completion of the Building according to the terms herein and it has been inspected and approved by the authorities having jurisdiction, and the Architect.

...

The Architect-Owner or Owner's Representative will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007, unless the parties appoint below another individual, not a party to the Agreement, to serve as Initial Decision Maker.

PAGE 13

Mutually agreed upon mediator

...

Arbitration pursuant to Section 15.4 of AIA Document A201-2007

...

(Insert rate of interest agreed upon, if any.) Five Percent (5%)

%—10% per annum

§ 15.3 The Owner or Owner's representative:

(Name, address and other information)

Todd Glover (Owner)

City of North Augusta, SC

P.O. Box 6400

100 Georgia Avenue

North Augusta, SC 29861-6400

Chris Schoen or James Dean (Owner's Representative)

Greenstone Development Services, LLC.

3301 Windy Ridge Parkway, Suite 320

Atlanta, GA 30339

PAGE 14

(Name, address and other information) information.)

Juan Carlos Ospina

Brasfield & Gorrie, L.L.C.
3021 7th Avenue South
Birmingham, AL 35233

...
§ 16.1.1 The Agreement is this executed AIA Document ~~A102-2007~~, A201-2007, Standard Form of Agreement Between Owner and Contractor.

...
Title of Specifications exhibit: Attachment A

Section	Title	Date	Pages
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...
Title of Drawings exhibit: Attachment A

Number	Title	Date
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PAGE 15

.1 ~~AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:~~

.2 ~~Other documents, if any, listed below:~~

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

- A. Attachment A – Drawing & Specification Log
- B. Attachment B – Sitework Limits for Ballpark
- C. Attachment C – Sitework Scope Clarification Matrix
- D. Attachment D – Clarifications
- E. Attachment E – Schedule of Values
- F. Attachment F – Project Schedule
- G. Attachment G – VA Log

...
Type of insurance or bond

Limit of liability or bond amount ~~(\$0.00)~~ (\$ 0.00)

...
Juan Carlos Ospina, Vice President

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Brian Barr, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:34:50 on 03/17/2016 under Order No. 5034355948_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A102™ – 2007, Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)