

FIRST AMENDMENT TO CONSTRUCTION MANAGEMENT AGREEMENT
ESTABLISHING GMP FOR INITIAL RELEASE OF SITEWORK

This Amendment No. 1 to the Construction Management at Risk Agreement is dated April 27, 2017, and is entered into by and between the Alexandria City School Board (“ACSB”), located at 1340 Braddock Place, Alexandria, VA 22314, the City of Alexandria (the “City”) and KELLER BROTHERS, INC. (“Construction Manager”), a Maryland Corporation duly organized under the laws of Maryland, with a place of business at 1012 Rising Ridge Road, Mount Airy, MD 21771.

WHEREAS, the Owner and Construction Manager entered into a Construction Management at Risk Agreement (“Agreement”) on July 8, 2016 with respect to the construction of a new PRE K-8 School and Recreation Center to replace the existing K-5 Patrick Henry Elementary School and Recreation Center (“Project”); and

WHEREAS, capitalized terms not otherwise defined in this First Amendment shall have the same meaning as set forth in the Agreement; and

WHEREAS, Parties desire to commence construction of the Project civil/site work and preparation of a building pad prior to accepting or authorizing a GMP Proposal for the entire project;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Agreement is amended as follows:

ARTICLE 1
SCOPE OF WORK

1.1.1 The Project is contemplated to occur in three phases as follows per the Contract Documents:

Phase 1 – Initial civil and site work as required to prepare a suitable building pad for Phase 2 to begin. Work includes site demolition, erosion and sediment controls, support of excavation and retaining walls along the proposed new bus loop, and initial utilities work.

Phase 2 – Construction of the new buildings foundation, superstructure, envelope and finishes and selective sitework to include the new bus loop off Latham Street (inclusive of BMP #1) and stormwater management facility #1 (SWM #1).

Phase 3 – Final requirements to complete the project. Work includes abatement and demolition of the existing buildings and parking lot, construction of the playgrounds and athletic fields, and construction of the new parking lot and final

utility connections, inclusive of stormwater management facility #2 (SWM #2) and other surface stormwater BMP's.

- 1.2 The Initial Release Scope of Work, (the “Initial Release Work”) shall consist of the work required in all phases of the project by those trades which are required to mobilize to complete Phase 1 of the project. Such trades shall include:

Support of excavation
Site electrical work (for incoming services only)
Site demolition
Earthwork, site preparation, and clearing
Sediment and erosion controls and tree protection
Stone-Strong retaining walls and associated fencing
Sheeting and shoring
Site utilities (water, sanitary sewer, and stormwater management)
Subdrainage for athletic playing field

In addition, the Initial Release Work shall include all temporary civil and site work measures (ie: paving, striping, curb & gutter, etc.) as required to carry out the various logistical needs of the Project to complete the multiple phases in compliance with the Contract Documents.

The following site-related trades are therefore excluded from the Initial Release Work as such trades are not required to mobilize until Phases 2 and 3 of the project:

Final paving, striping, and site signage
Final site concrete and curb and gutter
Cast in place retaining walls
Athletic playing fields
Playground equipment and surfacing
Landscaping

- 1.3 The Initial Release Work shall be performed in accordance with the Agreement, this First Amendment and the other Contract Documents listed as Exhibits 1 through 5 below, which are hereby incorporated into and made a part of the First Amendment by this reference:

Exhibit No.	Description	Pages	Date
1	List of Drawings and Specifications	6-13	4/21/17
2	Schedule of Values	14-23	4/21/17
3	Completion Schedule	24-30	4/21/17
4	Assumptions & Clarifications	31-33	4/21/17

Exhibit 4, Assumptions & Clarifications, shall take precedence over other Contract Documents as they further clarify the Work.

ARTICLE 2

GUARANTEED MAXIMUM PRICE

- 2.1.1 For the Construction Manager's proper and full performance of the Initial Release Work, the Owner shall pay the Construction Manager \$6,600,987 (the "Construction Price"). The Construction Price is the Cost of the Work as defined in Section 8.3 of the Agreement plus the Construction Manager's fee for providing the Construction Phase Services (the "Construction Fee").
- 2.1.2 The Construction Fee for the Initial Release Work is hereby established as a lump sum amount of \$205,465.
- 2.1.3 Consistent with Section 8.2 of the Agreement, the Construction Manager guarantees that the Construction Price for the Initial Release Work shall not exceed the "Guaranteed Maximum Price" or "GMP" as it may be amended from time to time in accordance with the Agreement. To the extent that Cost of the Work plus the Construction Fee exceeds the GMP, the Construction Manager shall bear such costs and amounts in excess of the GMP without reimbursement or additional compensation from the Owner.

ARTICLE 3

CONTRACT TIME AND DAMAGES

- 3.1.1 The Initial Release Work shall be completed per the milestones set forth in Exhibit 5. Should Construction Manager fail to substantially complete the work within the required period of time, Owner shall be entitled to assess as liquidated damages, but not as a penalty, consistent with Section 10.5 of the Agreement, in the amount as indicated in Exhibit 5.

ARTICLE 4

MISCELLANEOUS

- 4.1.1 Consistent with Section 4.6 of the Agreement, if Owner and Construction Manager are unable to agree upon the GMP for the balance of the Project or the specific language of the GMP Amendment for the balance of the Project, then the Agreement will be terminated for convenience and the owner will only be obligated to pay the Construction Manager as follows:
- 4.1.2 The Construction Manger shall only be entitled to the Preconstruction Fee the Construction Manager has earned in accordance with Article 7 of the Agreement.

- 4.1.3 The Construction Manger shall only be entitled to the Construction Phase Services in accordance with Section 14.3.3 of the Agreement.
- 4.1.4 With respect to Section 8.9.12 of the Agreement, the Parties agree that there shall no intermediate release of retainage monies on a per-Phase basis and that retainage shall be released per the terms of Section 8.9.12 once all work performed under this Amendment is determined to be Substantially Complete.
- 4.1.5 With respect to Section 13.2 of the Agreement, the Parties agree that the one-year Repair Period for all work performed under this agreement, regardless of under which Phase it occurs, will not begin until the Phase 3 work is determined to be Substantially Complete.
- 4.1.6 Except as expressly modified herein, the terms and conditions of the Agreement remain unchanged. In the event of a conflict between the terms of this First Amendment and those of the Agreement, Owner and Construction Manager agree that the terms of this Amendment shall prevail and control. To the extent the Owner and Construction Manager are able to agree upon the GMP for the balance of the Project, the Parties intend to incorporate the entire scope of Project Work into a subsequent amendment to the Construction Management Agreement which, by its terms, will supersede this First Amendment.
- 4.1.7 The Parties agree that in addition to the Construction Contingency defined under Section 4.11 of the Agreement, this GMP Amendment will include an Owner Contingency which shall be used to fund increases to the scope of work resulting from owner-desired upgrades or changes required by the local authorities having jurisdiction during the final review stages of the City's Development Special Use Permit (DSUP) process which otherwise would have resulted in a Change Order to the Construction Manager. Use of the Owner Contingency shall be effectuated on a case by case basis by Owner transferring funds from the Design and Permit Review Contingency to the line item(s) in the Schedule of Values that corresponds to the Cost of the Work that is being funded from the Owner Contingency. Once funds have been transferred in this manner, the Construction Manager can bill against them as provided in Article 8 hereof. When the Construction Manager would like funds from the Owner Contingency to be used for a Cost of the Work, it shall submit a written transfer request to Owner identifying the amount requested, the Cost of the Work for which the funds are being requested, and the line item(s) in the Schedule of Values to which the requested amount should be transferred. All such requests shall be accompanied by a transaction summary of all previous transfers from the Owner Contingency, all pending transfer requests, and the Owner Contingency balance prior to the request. Owner shall reasonably consider all such requests from the Construction Manager, and if Owner denies such a request, it shall explain why.

4.1.8 For the purposes of this Amendment, the Parties agree that there shall be no share of any Savings as defined in Section 8.12 of the Agreement and that all Savings as defined in the Agreement shall be returned to the Owner.

IN WITNESS WHEREOF, the Owner and Construction Manager have caused this First Amendment to be executed by their duly authorized representatives.

Alexandria City School Board

By: Dr. Alvin Crawley, Ed. D

Title: Superintendent of Schools

Signature: _____

Date: _____

Keller Brothers, Inc.

By: _____

Title: _____

Signature: _____

Date: _____

Alexandria City School Board

By: Richard P. Jackson

Title: Director, Educational Facilities

Signature: _____

Date: _____

Alexandria City School Board

By: Sharon T. Lewis

Title: Director of Procurement & General Services

Signature: _____

Date: _____

The City of Alexandria

By: _____

Title: _____

Signature: _____

Date: _____

