

DRAFT AIA® Document A132® – 2019

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the << >> day of << >> in the year << >>.
(In words, indicate day, month, and year.)

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

Montgomery County Intermediate Unit
2 West Lafayette Street
Norristown, PA 19401

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

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

MCIU Broadcast Studio
2 West Lafayette Street
Norristown, PA 19401

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

Skanska USA Building, Inc.
1010 Spring Mill Avenue
Suite 300
Conshohocken, PA 19428

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

Blackney Hayes Architects
1100 Ludlow Street
Philadelphia, PA 19107

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.

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

This document is intended to be used in conjunction with AIA Documents A232™-2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™-2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™-2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™-2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9. For the purposes of this Agreement, the term "General Conditions" as used herein shall mean the AIA A232-2019, General Conditions of the Contract for Construction, as modified by Owner.

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND DATES OF SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

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

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

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

§ 3.3 Substantial Completion of the Project or Portions Thereof

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the date of Substantial Completion of the Work of all of the Contractors for the Project will be:
(Insert the date of Substantial Completion of the Work of all Contractors for the Project.)

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

Portion of Work	Substantial Completion Date
None	N/A

§ 3.4 When the Work of this Contract, or any Portion Thereof, is Substantially Complete

§ 3.4.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall substantially complete the entire Work of this Contract:

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

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

[☒] By the following date:

§ 3.4.2 Intentionally deleted.

§ 3.4.3 If the Contractor fails to substantially complete the Work of this Contract, or portions thereof, as provided in this Section 3.4, liquidated damages, if any, shall be assessed as set forth in the General Conditions.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be:

(Check the appropriate box.)

[☒] Stipulated Sum, in accordance with Section 4.2 below

§ 4.2 Stipulated Sum

§ 4.2.1 The Contract Sum shall be (\$), subject to additions and deductions as provided in the Contract Documents.

§ 4.2.2 Alternates

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

-+Item	Price
N/A	N/A

§ 4.2.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

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

Item	Price	Conditions for Acceptance

§ 4.2.3 Allowances, if any, included in the Contract Sum:

(Identify each allowance.)

Item	Price
<input type="text"/>	<input type="text"/>

§ 4.2.4 Unit prices, if any:

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

Item	Units and Limitations	Price per Unit (\$0.00)
N/A		

§ 4.2.3 Cash allowances are not permitted. Material allowances, if any, included in the Contract Sum are listed on Contractor's Bid Form, attached hereto as Exhibit A, and made a part hereof. The allowances shall be solely owned by the Owner and, as such, the Owner shall have the sole discretion relating to the use of these allowances. Furthermore, any unused portion of the allowances shall be deducted from the Contractor's Contract Sum. The Contractor shall receive no compensation on the unused portion of the allowances. The Contractor will be required to furnish documentation to the Owner evidencing the expenditures to be charged to the allowance and the reasons therefor prior to the Owner's approval of expenditures from the allowances.

§ 4.3 Intentionally deleted.

§ 4.4 Intentionally deleted.

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 In accordance with the General Conditions, based upon Applications for Payment submitted to the Construction Manager by the Contractor, and Certificates for Payment issued by the Construction Manager and Architect, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

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

§ 5.1.3 Provided that an Application for Payment is received by the Construction Manager not later than the « 25th » day of a month, the Owner shall make payment of the amount certified to the Contractor not later than « 45 » days of the « receipt of all required documents and approvals as set forth herein ». If an Application for Payment is received by the Construction Manager after the application date fixed above, it will not be reviewed and certified for payment until the next month. The Contractor recognizes that formal payment approvals by the Board of School Directors are required by law and are a precondition to payment. The Owner reserves the right to withhold payment to Contractor if Contractor has not submitted its certified payroll certificates, all subcontractor e-verification forms, and all criminal background checks and child abuse clearance forms, until such time as Contractor has complied. The Contractor hereby expressly waives any rights to penalties, interest, and attorney's fees that the Contractor has or may have under the Pennsylvania Prompt Pay Act, 62 Pa.C.S.A. § 3931, et seq. as amended from time to time.

§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Construction Manager and Architect may require. This schedule of values, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.2 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.

§ 5.1.4.3 In accordance with the General Conditions, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

- .1 That portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less the retainage; and

- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing and fully insured; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of the General Conditions;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of the General Conditions; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.5 Intentionally deleted.

§ 5.1.6 Intentionally deleted.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to when the Work of this Contract is substantially complete, the Owner may withhold retainage, from the payment otherwise due. The withholding, reduction and release of retainage shall be as set forth in Sections 9.3.4, 9.8.5, and 9.8.5.1 of the General Conditions.

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

Ten Percent (10%)

§ 5.1.7.1.1 Intentionally deleted.

§ 5.1.7.2 Intentionally deleted.

N/A

§ 5.1.7.3 Intentionally deleted.

N/A

§ 5.2 Final Payment

§ 5.2.1 Final Payment Where the Contract Sum is Based on a Stipulated Sum

§ 5.2.1.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor as set forth in the General Conditions, and when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of the General Conditions and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Owner has received final certificates of occupancy from all authorities having jurisdiction over the Work;
- .3 the Contractor has submitted all required paperwork, including, without limitation, certified payroll receipts, final lien waivers, as-built drawings (if applicable), manuals, and warranty information;
- .4 the Contractor has completed all Work in compliance with all applicable codes, law, ordinances, and regulations which affect the Project and the Work has passed all inspections; and
- .5 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect.

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

N/A

§ 5.2.2 Intentionally deleted.

§ 5.3 Except as otherwise set forth in the Contract Documents, payments due and unpaid under the Contract shall bear interest at the rate of three percent (3%) simple interest per annum from the date payment is due.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Article 15 of the General Conditions, unless the parties appoint below another individual, not a party to this 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.)

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§ 6.2 Binding Dispute Resolution

For any Claim involving the Contractor and Owner, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[☐] Arbitration pursuant to Article 15 of AIA Document A232–2019.

[☒] Litigation in the Court of Common Pleas of Montgomery County, Pennsylvania.

[☐] Other: *(Specify)*

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ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.

§ 7.1.1.1 Intentionally deleted.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.

§ 7.2 Intentionally deleted.

§ 7.3 Intentionally deleted.

ARTICLE 8 MISCELLANEOUS PROVISIONS

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

§ 8.2 The Owner's representative:

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

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§ 8.3 The Contractor's representative:

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

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

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in the General Conditions and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in the General Conditions, and elsewhere in the Contract Documents.

§ 8.6 Intentionally deleted.

§ 8.7 Intentionally deleted.

§ 8.8 Intentionally deleted.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the Contract Documents, except for modifications issued after execution of this Agreement, as enumerated in Article 1.1.1 of the General Conditions, and includes the following documents:

- .1 AIA Document A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition, as modified by Owner
- .2 Intentionally deleted.
- .3 AIA Document A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition, as modified by Owner
- .4 Building Information Modeling Exhibit, if completed:
- .5 Drawings

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Number

Title

Date

- .6 Specifications

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Section

Title

Date

Pages

- .7 Addenda, if any:

Number

Date

Pages

- .8 Other Exhibits:

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

« »

Title	Date	Pages

[« »] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A232–2019 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

- « .1 Contractor’s completed Bid Form, executed Bid Bond, Agreement of Surety, and executed Non-Collusion Affidavit
- .2 Project Manual, as defined in the Instructions to Bidders
- .3 Contractor’s executed Performance Bond and Payment Bond
- .4 Contractor’s Certificate of Insurance
- .5 Prevailing Wage Determination Serial No. _____
- .6 Contractor’s completed Public Works Employment Verification Form »

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

OWNER (Signature)

« »« »

(Printed name and title)

CONTRACTOR (Signature)

« »« »

(Printed name and title)