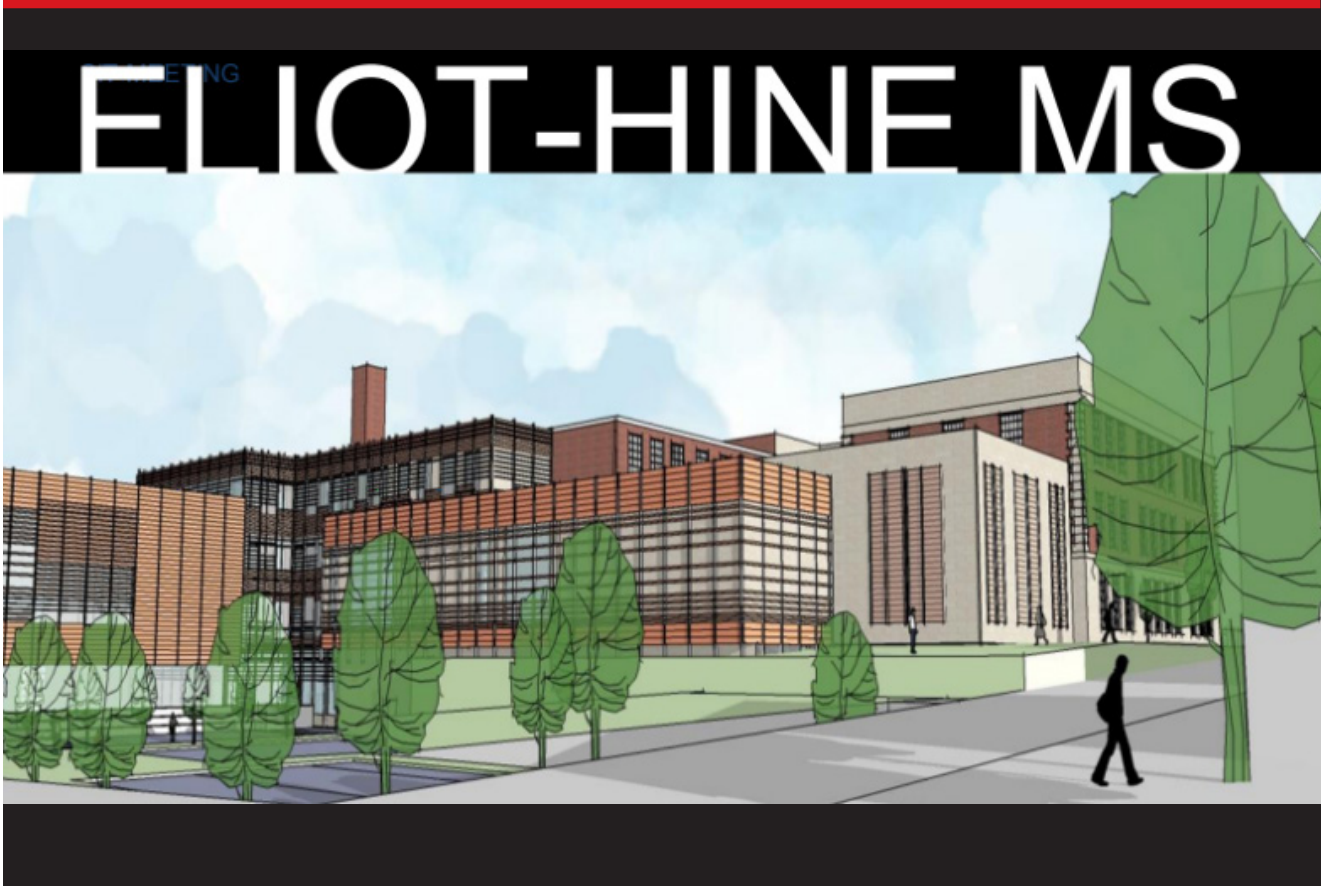
Improvements to School Modernization Contract Administration Could Save District Money

October 19, 2020

A report by RSM US LLP for the Office of the District of Columbia Auditor



Office of the District of Columbia Auditor

Kathleen Patterson, District of Columbia Auditor
www.dcauditor.org

Office of the District of Columbia Auditor

October 19, 2020

The Hon. Phil Mendelson, Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Chairman Mendelson and Councilmembers:

I am pleased to present this school modernization report prepared for the Office of the D.C. Auditor by RSM US LLP, to fulfill our obligation under D.C. Code §38-2973.05 to report on the use of capital funds by the District of Columbia's Public Schools (DCPS), a task managed for DCPS by the Department of General Services (DGS).

Our previous school modernization audits identified internal control deficiencies across the program and some have focused on individual school modernizations. For this report we issued a request for proposals from firms experienced in public sector construction audits and were pleased to contract with RSM which has experience in the District of Columbia as well as nationally.

We selected the Eliot-Hine Middle School Modernization Project, a Ward 6 school at 1840 Constitution Avenue N.E., with an overall project budget of $84 million and Turner Construction serving as the construction manager. The contract compliance audit was designed with two main tasks: identifying any risks in the contract that could impact cost and legal compliance, and identifying any controls needed to improve DGS contract administration.

Based on the project schedule we had assumed the report would encompass all close-out activities but that proved not to be the case, so in addition to this report we are engaging RSM to also review the final close-out activities on the project during Fiscal Year 2021 and anticipate a follow-up report in spring 2021.

RSM identified several areas for improvement outlined in the Executive Summary and detailed in the report. As we state in our response to DGS's written comments, we are pleased that the agency has committed to address all of the report's recommendations. Director Keith Anderson noted that DGS officials "share the common goal of making improvements in the execution of the school modernization program and are taking strides to improve the existing program." We commend the agency for that commitment and thank them and RSM for the collaboration that resulted in the following report.

Sincerely yours,

Kathleen Patterson
District of Columbia Auditor

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Executive Summary

Office of the District of Columbia Auditor

Why ODCA Did This Audit

D.C. Code § 38-2973.05 requires ODCA to conduct an annual audit of school modernization projects. ODCA selected the Eliot-Hine Middle School modernization project because construction was partially complete during the engagement and there would be an opportunity to implement recommendations and recover costs from the audit. The Eliot-Hine project also was selected because the construction contract is cost-based, which is common for construction contracts, but carries increased risks compared to a fixed-price contract. ODCA contracted with an outside firm with experience auditing construction contracts to audit the contract between the Department of General Services (DGS) and the construction manager, Turner Construction Company (Turner).

What ODCA Found

Turner did not exclude its own subsidiary, Turner Logistics, from the calculation of Subcontractor Default Insurance (SDI) ($70,070). The General Conditions included transactions for disallowed costs ($14,000) and transactions without records to show that they were related to the project ($919). In addition:

- DGS paid Turner for workers not initially listed on the certified payroll and without reconciling the certified payroll to the pay application.
- Some labor costs including positions, employees, hourly rates, and work performed before the Notice to Proceed was issued do not align with the contract terms.
- DGS accepted and paid for staff fringe benefits costs, which usually are restricted or not allowed in this project type, and which the contract did not explicitly define.
- As of the testing scope period, the local labor employed on the project was only 39%; 51% is the amount required.

What ODCA Recommends

During final project accounting and closeout, DGS should reconcile SDI costs and request a credit of $70,070 if Turner Logistics is included in the subcontractor listing. DGS should request a credit of $14,919 for the disallowed and unsupported costs.

In future projects, DGS should:

- Reconcile the labor costs submitted with the pay application to the certified payroll.
- Require the construction manager to obtain written pre-approval before billing for items that are not included in the contract documents.
- Specify allowable fringe benefit costs in the contract.

In the closeout for this project, DGS should reconcile the contingency. The Department of Employment Services should verify compliance with local labor requirements.

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SUMMARY OF RESULTS

The primary objective of the engagement was to understand the contractual relationship between the Department of General Services ("DGS") and the Construction Manager ("CM") for the *Eliot-Hine Middle School Modernization* project, identify primary areas of risk, perform detailed testing procedures designed to validate the contractual compliance of billings and costs of work. Our objectives also included identification of improvements to project management controls during contract administration. During our detailed testing procedures, we identified the following observations and improvement opportunities:

Observations and Improvement Opportunities	
Observations	**Impact**
1. Subcontractor Default Insurance (SDI) calculation The CM's subsidiary was included in the calculation of SDI costs; however, the SDI policy excludes subsidiaries.	$ 70,070
2. Support for General Conditions costs General Conditions included transactions for disallowed costs, and transactions which were not supported by records to evidence actual cost to the project.	$ 14,919
Improvement Opportunities	
IO.1 Certified payroll supporting documentation Craft employees were charged to the project, but were not initially reported on the CM's certified payroll reports. Management should reconcile the labor costs submitted with the pay application to the certified payroll support.	
IO.2 Allowable labor costs Some labor costs, while accepted by DGS as appropriate for the project, do not align with the contract terms, including positions, employees, and staff hourly rates inconsistent with the contract. Management should require the CM to obtain pre-approval before billing for items not specifically included in the contract documents.	
IO.3 Contract language for fringe benefits Staff fringe costs, which we have seen restricted or disallowed on other Construction Manager at Risk ("CMAR") projects, were accepted by DGS on this project. Management should include contract language to better define composition and allowability of staff fringe costs.	
IO.4 Closeout procedures Management should incorporate into its project closeout procedures the reconciliation of SDI costs, reconciliation of local labor requirement, and reconciliation of contingency.	

The Eliot Hine Modernization project includes a myriad of complex construction budgeting, accounting, and compliance requirements. Our procedures revealed that at the interim date of this report, the project is generally well controlled and accounted for. As discussed in further detail herein, we noted DGS Management has taken certain positions, and / or allowed certain treatments based upon their understanding of the contract and their negotiations with the CM. Consultation with legal counsel to discuss these matters in greater detail may be appropriate. Lastly, we recommend certain procedures be performed upon closeout of the project, due to the inherent complexities associated with shared savings validations and other items outlined in Improvement Opportunity #4.

PROJECT BACKGROUND

The Eliot-Hine Middle School campus consists of four adjoining buildings, constructed between 1931 and 1964. The latest building addition resulted in misaligned levels between structures, operational issues, and a facility oversized for the student body. The Department of General Services ("DGS") oversees capital construction and facilities management of existing District-owned properties. In March 2018, DGS released a Request for Proposal ("RFP") for Design-Build services, and ultimately awarded a Construction Manager at Risk ("CMAR") contract to the Turner Construction Company in December 2018. While the RFP and initial agreement utilized the term "Design Builder," the agreement executed between DGS and the CM was converted to use the term Construction Manager.

This multi-year project incorporates renovation of the older, historic structures and demolition of the latest addition. A swing plan was implemented for the construction phase. During the first year of construction, students were moved into the historic portions of the building while the 1961 portion of the building was demolished.

Students were moved into modular classrooms for the second year of construction. During this phase, the remaining school structure was modernized, including work such as redesigning classroom layouts, upgrading the HVAC system, upgrading the building to current code standards (including ADA and life safety systems). An addition was constructed for the gymnasium and other physical education space. During this phase, challenges related to simultaneously sequencing the new construction and abatement of the historical building, other design changes, and contaminated soils resulted in schedule and cost impacts. The CM and DGS negotiated the revised completion date and cost change, and executed the agreement in May 2020. The revised schedule is detailed in the table below. Upon completion, the modernized facility will accommodate 480 students and achieve LEED Gold certification.

Key Project Points	
Architect	Perkins Eastman, Inc.
Construction Manager	Turner Construction Company
Executed GMP Amount	$73,188,609
Notice to Proceed (NTP)	July 18, 2018
Substantial Completion – Original	July 29, 2020
Substantial Completion – Revised	December 12, 2020
Phased Completion Detail: Renovated Eliot-Hine Middle School Building Gymnasium and PE Addition Music Rooms, Broadcast Media Studio, Site Enhancements Field and Site Improvements	 August 2020 October 2020 December 2020 Spring 2021
Final Completion – Revised	February 10, 2021

OBJECTIVES, SCOPE, AND APPROACH

Objectives

The primary objective of the engagement was to understand the contractual relationship between DGS and the CM for the *Eliot-Hine Middle School Modernization* project, identify primary areas of risk, perform detailed testing procedures designed to validate the contractual compliance of billings and costs of work. Our objectives also included identification of improvements to project management controls during contract administration.

Scope

We performed an interim audit of the project; with our scope period covering the period from the project inception through Pay Application 16, July 18, 2018 through January 31, 2020. The project was scheduled for final completion in September 2020.

Approach

Task A – Assessment of Risks

During this phase, we reviewed the procurement of the CM, the executed Construction Manager at Risk Agreement, Guaranteed Maximum Price ("GMP") Amendment, and all related Exhibits to the agreement. We identified risks, unfavorable terms, instances of ambiguity or contradiction, and other contract provisions not in the best interest of DC government. At the conclusion of this phase, we prepared and submitted a Comprehensive Risk Register and Unusual Risk Report, dated February 14, 2020.

Task B – Review of the Construction Project

With consideration to the risk assessment performed in Task A, we developed test procedures for key requirements noted in the Agreement and GMP. We performed detailed testing procedures to validate the reimbursable nature of costs to DGS incurred by the CM. Our procedures included, but were not limited to:

- Construction Manager's job cost billings reconciliation
- Review of applications for payment for compliance with the contract
- Subcontractor source document review for contractual compliance and to validate costs had been actually incurred
- Detailed source documentation and contractual compliance review of general conditions, requirements, equipment rental, and contractor labor costs. Our sampled transactions were reviewed to:
    - Determine if costs invoiced are billable under the contract, and determine if they are already included under general conditions or fees (e.g. for the office, self-performed work);
    - Determine if work performed has been approved as specified in the contract;
    - Review labor adjustments to determine if they are appropriate;
    - Determine if construction manager is passing through quantity discounts on materials to DC Government;
    - Determine if total rent for each piece of equipment exceeds the market value for the equipment and if unallowable markups are included on the rental from the construction manager;
    - Review subcontracts and identify any fictitious vendors or related party transactions;
    - Determine if the cost of rework for unacceptable quality was passed through to DC Government, and if any discounts were not passed through to DC Government;
    - Determine if DC Government was billed for unallowable costs;
    - Determine if payment applications and supporting documentation were submitted after the costs they reflect were incurred;
    - Determine if payment applications included a waiver of the right to file a mechanic's lien and all other claims, subject only to receipt of payment

OBJECTIVES, SCOPE, AND APPROACH

- Review of source documentation and recalculation of insurance
- Detailed testing of other relevant source documentation
- Development of Observations and recommendations to recover costs
- Development of Improvement Opportunities and recommendations for best practices and improvement to future contracts

At the conclusion of our fieldwork, we shared and discussed the nature of our observations and improvement opportunities with the Department of General Services ("DGS") project management and the Office of the District of Columbia Auditor ("ODCA").

OBSERVATION MATRIX

1. Subcontractor Default Insurance Calculation ("SDI")

In our Unusual Risk Report dated February 14, 2020, we identified that the negotiated SDI rate may be inappropriately applied to costs of work not performed by subcontractors. The purpose of Subcontractor Default Insurance is to insure the project against the risk of loss associated with the default (failure) of third party subcontractors. As such, when a SDI rate is used, it should be applied only to the costs associated with work performed by subcontractors. SDI is not typically intended to cover subsidiaries or partners of the Construction Manager.

Through our review of an example SDI policy provided by the CM (as representation of the terms of their SDI program), we noted that subsidiaries and affiliates are excluded from coverage:

> *Section II DEFINITIONS.*
>
> *Q. **Subcontractor** means:*
>
> *1. Any legal entity that has entered into a **Contract** with the **Insured**. **Subcontractor** shall not include any affiliate or subsidiary of the **Insured** now existing or hereafter formed or acquired, whether partially or wholly owned or controlled, or any subsidiary of a subsidiary or affiliate (whether direct or indirect), or partnership or joint venture of the **Insured**.*

In our review of the GMP amendment, we noted the stipulated 1.5% SDI was likely applied to estimated costs within Division 23 ($2,635,268), and Division 26 ($2,036,040) to be incurred by Turner Logistics, a related entity to the CM. We requested supporting information from the CM to validate the calculation of SDI costs; however, no additional information was provided. The CM further indicated that a final calculation and "true-up" of final SDI costs would be presented at project closeout.

The table below details the cost impact to the GMP:

Table 1.1

Entity	Scope	Amount
Turner Logistics	Division 23	$ 2,635,268
Turner Logistics	Division 26	$ 2,036,040
Total		$ 4,671,308
SDI 1.5%		**$ 70,070**

During final project accounting and closeout, we recommend DGS require the CM to provide the listing of subcontractors covered by the SDI policy and the amounts being covered for each subcontractor. DGS should reconcile this list, confirm the accuracy of calculations, and verify Turner Logistics is not included in the subcontractor listing. If costs associated with Turner Logistics are used in the calculation of SDI costs, we recommend DGS request a credit in the amount of the $70,070 noted above.

OBSERVATION MATRIX

2. Support for General Conditions Costs

Through our detailed testing of general conditions and general requirements items, we noted four (4) allocation transactions that were not supported by an invoice or document to evidence the actual costs incurred by the Construction Manager, and two (2) transactions that were not related to the project. Per Section 10.3 of the Agreement, costs shall be fully supported:

> ***§10.3*** *Documents Required with Application for Payment. Each Application for Payment shall include detailed documentation of costs as a condition to approving progress payments, but the Construction Manager shall nevertheless maintain complete documentation of the costs.*

The table below details the unsupported transactions:

Table 2.1

PA #	Description	Invoice Reference	Job Cost Amount
10	Staff Training	Allocation	$ 3,500
10	Staff Training	Allocation	$ 3,500
10	Staff Training	Allocation	$ 3,500
10	[none]	Allocation	$ 3,500
	Total		**$ 14,000**

Additionally, we identified staff training transactions that were not directly related to the project. The table below shows the transaction details, which were confirmed by the CM as unrelated to the project:

Table 2.2

PA #	Description	Invoice Purpose	Job Cost Amount
8	Staff Training	"Facilitator Training" travel costs	$ 674
8	Staff Training	"Industry Innovation" travel costs	$ 245
	Total		**$ 919**

Although the CM indicated the costs in Table 2.1 related to pre-approved training, no additional documentation was provided to support the nature of these allocations, or evidence the actual costs incurred. We understand DGS approved certain training costs, on the condition that all costs invoiced to the project would be fully supported by appropriate documentation (timesheets, hotel and airfare invoices, etc.) and directly related to the project. As such, we recommend DGS request a credit of **$14,919** for the unsupported and unrelated staff training costs noted above.

IMPROVEMENT OPPORTUNITIES

IO.1 Certified Payroll Supporting Documentation

Through our detailed testing of general requirements labor costs, we noted during July 2018 four (4) craft employees were charged to the project in the amount of $3,643, but were not reported on the CM's certified payroll reports. The table below details the noted transactions:

Table IO 1.1

Employee	Position	Hours	Job Cost Amount
Employee 1	Laborer	25	$ 1,000
Employee 2	Laborer	25	$ 1,310
Employee 3	Laborer	9	$ 333
Employee 4	Laborer	25	$ 1,000
	Total	**84**	**$ 3,643**

Although the CM subsequently produced revised certified payroll records for each of the four (4) transactions noted above, through this finding, we noted that Management's review of the pay application did not incorporate a reconciliation of the labor cost submitted to the certified payroll support. For this project, Certified payroll records serve as evidence of the craft employees' time on the project, in lieu of timesheets; however, Certified payroll records are submitted to DGS through the Prolog system and not included as support with the pay applications. As such the reconciliation was not performed timely, and resulted in payments related to hours charged, prior to receipt of proper support.

Without reconciling the labor costs against the supporting documentation, there is an increased risk of inappropriate or unsupported costs being charged to the project. We recommend DGS incorporate steps to perform a reconciliation of the craft labor costs submitted with the pay applications and the certified payroll records. This can be achieved through a sampling process or through examination of the full population of labor costs and certified payroll documents.

IMPROVEMENT OPPORTUNITIES

IO.2 Allowable Labor Costs

Through our detailed testing of General Conditions labor costs and discussion with DGS project management, we noted that some costs, while accepted by DGS as appropriate for the project, may not align with the contract terms. Refer to sections A – D below and on the following pages for specific items noted.

A. Six (6) positions / employees were charged to the project but not included in the Agreement Exhibit E. Per Section 9.2 of the Agreement, staff must be charged at the rates identified in Exhibit E:

__§9.2__ Cost of General Conditions

> *__§9.2.1__ Cost of construction staff (only staff stationed in the field is reimbursable; however, exceptions will be made for scheduling, cost estimating, accounting services and other staff if such functions are normally provided by the Construction Manager's regional and/or home office personnel). The staff identified on Exhibit E shall be chargeable as Cost of General Conditions at the rates set forth thereon.*

Specifically, the Senior Procurement Agent and Senior Labor Compliance Analyst positions, and individual employees in the positions of Finance Admin, Cost Analyst, and superintendent were not included in Exhibit E. While the rates charged for these employees were generally consistent with other rates listed in Exhibit E, we noted there was no documented approval of the additional positions or employees on the project. The table below details the positions / employees identified:

Table IO 2.1

		A	*B*	*C = A x B*
	Position	Rate	Total Job Cost Hours	Total Job Cost
Employee 1	Finance Admin	$ 96	2.00	$ 192
Employee 2	Cost Analyst	$ 96	428.51	$ 41,137
Employee 3	Finance Admin	$ 96	65.75	$ 6,312
Employee 4	Senior Procurement Agent	$ 111	134.00	$ 14,874
Employee 5	Sr. Labor Compl. Analyst [1]	$ 96	54.61	$ 5,271
Employee 6	Superintendent	$ 70	264.00	$ 18,480
	Totals		**948.87**	**$ 86,266**

Note 1: Job Cost rate varied from $90.82 to $113.62

The hours and job cost quantities above represent 4% of the General Conditions labor for the project.

(continued)

IMPROVEMENT OPPORTUNITIES

IO.2 Allowable Labor Costs (continued)

B. One (1) employee was charged to the project at an hourly rate greater than rates specified for the position. The employee was charged as an Engineer at $86/hour, although the Engineer rate per Exhibit E is $61-70/hour.

Per Section 9.2 of the Agreement, staff must be charged at the rates identified in Exhibit E:

§9.2 *Cost of General Conditions*

> ***§9.2.1*** *Cost of construction staff (only staff stationed in the field is reimbursable; however, exceptions will be made for scheduling, cost estimating, accounting services and other staff if such functions are normally provided by the Construction Manager's regional and/or home office personnel). The staff identified on Exhibit E shall be chargeable as Cost of General Conditions at the rates set forth thereon.*

The variance between the job cost and contract rate is detailed in Table IO1.2 below.

Table IO 2.2

	A	*B*	*C = A x B*	*D*	*E = B x D*	*F = E - C*
Position	Rate	Total Job Cost Hours	Total Job Cost	Exhibit E Rate	Calculated Total [2]	Variance
Engineer	$ 86	$ 216	$ 18,576	$ 61	$ 13,176	$ (5,400)
Engineer	$ 86	$ 216	$ 18,576	$ 70	$ 15,120	$ (3,456)

Note 2: Calculated for the Engineer rate range per Exhibit E.

(continued)

IMPROVEMENT OPPORTUNITIES

IO.2 Allowable Labor Costs (continued)

C. One (1) position / employee was charged to the project but not included in the contract Exhibits E or F. The employee was charged to the project at three rates, between 128% - 158% greater than the highest level listed (Project Executive) in Exhibit E. Through discussion with DGS, we understand the CM indicated that an additional key personnel was needed due to unforeseen site conditions. DGS accepted this explanation and the position / employee costs, although the approval was issued verbally and not formally documented as indicated by Agreement Section 5.7.1:

***§5.7** Key Personnel*

> ***§5.7.1** To carry out its duties, the Construction Manager shall provide at least the key personnel identified in Exhibit F to this Agreement ("Key Personnel"), who shall carry out the functions identified in Exhibit F. Among other things, the Key Personnel shall include the project managers that will be responsible for managing the Mechanical, Electrical and Plumbing ("MEP") Work and the interior work. It is contemplated that these project managers will work from the design stage, purchasing and throughout the bulk of the field work. The Construction Manager's obligation to provide adequate staffing is not limited to providing the Key Personnel, but is determined by the needs of the Project. The Construction Manager shall not replace any of the Key Personnel without the Department's prior written approval, which shall not be unreasonably withheld. If any of the Key Personnel become unavailable to perform services in connection with the Agreement due to death, disability or separation from the employment of the Construction Manager or any affiliate of the Construction Manager, then the Construction Manager shall promptly appoint a replacement acceptable to the Department. The Department shall be entitled to complete information on each such replacement, including a current resume of his or her qualifications and experience.*

Exhibit F – Key Personnel: Project Executive, Project Manager, Superintendent

The table below details the position / employee costs identified:

Table IO 2.3

	A	*B*	*C = A x B*	*D*	*E = B x D*	*F = E - C*
Position	Rate	Total Job Cost Hours	Total Job Cost	Exhibit E Rate: Project Executive	Calculated Total	Variance
Operations Manager	$ 267	165	$ 44,055	$ 208	$ 34,320	$ (9,735)
Operations Manager	$ 270	68	$ 18,225	$ 208	$ 14,040	$ (4,185)
Operations Manager	$ 329	8	$ 2,468	$ 208	$ 1,560	$ (908)
Vice President & Senior Operations Mgr	$ 267	70	$ 18,690	$ 208	$ 14,560	$ (4,130)
Vice President & Senior Operations Mgr	$ 329	30	$ 9,870	$ 208	$ 6,240	$ (3,630)
Totals		**340**	**$ 93,308**		**$ 70,720**	**$ (22,588)**

(continued)

IMPROVEMENT OPPORTUNITIES

IO.2 Allowable Labor Costs (continued)

D. Thirteen (13) employees charged a total of 566 hours in the amount of $40,151 to the project before the Notice to Proceed (NTP) date of July 18, 2018. The CM was issued a Notice of Award dated June 5, 2018. Through discussions with DGS project management during the execution of our work, DGS indicated this notice was sufficient for the CM to begin assigning cost to the project. Per Sections 9.3.8 and 5.1 of the Agreement:

§9.3 *Costs not to be Reimbursed.*

> ***§9.3.8*** *Any costs incurred in performing work of any kind before Notice to proceed, unless specifically authorized by a duly authorized Contracting Officer of the Department in advance and in writing.*

§5.1 *General. The Construction Phase shall not commence until the Department issues a Notice to Proceed for Construction Phase Services.*

The table below details the employees / positions who charged time to the project between Notice of Award date June 5, 2018 and Notice to Proceed date July 18, 2018:

Table IO 2.4

Employee	Position	Hours	Amount
Employee 1	Project Engineer	136	$ 9,248
Employee 2	Senior Procurement Agent [3]	133	$ 14,763
Employee 3	Accting Manager	1	$ 81
Employee 4	Senior Estimating Engineer [3]	20	$ 2,000
Employee 5	Project Executive	20	$ 3,200
Employee 6	Superintendent	80	$ 5,600
Employee 7	Laborer	8	$ 189
Employee 8	Laborer	24	$ 568
Employee 9	Laborer	6	$ 224
Employee 10	Laborer	24	$ 568
Employee 11	Laborer	74	$ 2,459
Employee 12	Laborer	16	$ 472
Employee 13	Laborer	24	$ 780
	Totals	**566**	**$ 40,151**

Note 3: Senior Procurement Agent and Senior Estimating Engineer are not listed on Exhibit E (see IO.2a)

(continued)

IMPROVEMENT OPPORTUNITIES

IO.2 Allowable Labor Costs (continued)

The contract includes clauses (§5.7, §9.2, Exhibit E) to specifically define which members of the Construction Manager's team are approved for the project, and at which rates those personnel should be billed. Through the procurement and contracting process, these provisions have been vetted and approved through appropriate District Departments. Agreements to alter those provisions should be clearly documented in writing, to avoid the risk of future confusion.

Further, the purpose of the NTP is to establish a contractual date for the start of the project timeline and costs. Typically, the CM may not mobilize on the project site before a NTP is issued. Allowing costs prior to the NTP date increases the risk of inappropriate or disallowed costs to be charged to the project.

Contract disputes may arise if the contract specifically defines certain items, but alternative arrangements were agreed verbally. This can be especially problematic in the event of turnover, on either the District or contractor team, as new parties to the project may not have a record of prior verbal agreements. For future projects, we recommend that DGS require the CM to obtain pre-approval before billing for items not specifically included in the contract documents.

IMPROVEMENT OPPORTUNITIES

IO.3 Contract Language for Fringe Benefits

Through our detailed testing of General Conditions labor and reimbursable costs, and through discussion with DGS project management, we noted that staff fringe costs, which we have seen restricted or disallowed on other Construction Manager at Risk ("CMAR") projects, were accepted by DGS on this project. Labor burden refers to the CM's cost of an employee, aside from salary. Typically, contracts define this cost to include payroll taxes and benefits, such as insurance and paid time off (commonly referred to as "fringe" benefits), incurred by the CM. Refer to sections A – B below and on the following pages for specific items noted.

A. Through our sample analysis, eighteen (18) employees charged a total of 356 hours, or $33,615, of "fringe" time, including holiday, vacation accrued, sick leave, and excused absences. Exhibit E and Sections 8.7.1 and 9.2 of the Agreement, indicates such fringe costs may be incorporated into the staff labor rates; however, it does not specifically define what fringe benefits include.

Exhibit E – General Conditions Staff & Rates

2. Staff Hourly Rates are fully burdened (including EBE [Employee Business Expenses], taxes and overhead).

§8.7 *"Direct Cost of the Work" shall mean labor, material and other costs reasonably and necessarily incurred in the proper performance of the Work as approved by the Department and shall include, but not be limited to:*

§8.7.1 *Labor. Payment will be made for direct labor cost plus indirect labor cost such as insurance, taxes, fringe benefits and welfare provided such costs are considered reasonable. Indirect costs shall be itemized and verified by receipted invoices. If verification is not possible, up to eighteen percent (18%) of direct labor costs may be allowed.*

§9.2 *Cost of General Conditions.*

§9.2.1 *Cost of construction staff (only staff stationed in the field is reimbursable; however, exceptions will be made for scheduling, cost estimating, accounting services and other staff if such functions are normally provided by the Construction Manager's regional and/or home office personnel). The staff identified on Exhibit E shall be chargeable as Cost of General Conditions at the rates set forth thereon.*

§9.2.2 *Fringe Benefits associated with construction staff costs*

§9.2.3 *Payroll taxes and payroll insurance associated with construction staff costs*

(continued)

IMPROVEMENT OPPORTUNITIES

IO.3 Contract Language for Fringe Benefits (continued)

A summary of these charges is presented in the table below:

Table IO 3.1

Fringe Description	No. Job Cost Transactions	No. Employees	Total Hours	Total Cost
Holiday	17	12	112	$ 11,689
Vacation Accrued	13	9	122	$ 10,791
Sick Leave	4	3	93	$ 8,504
Excused	6	6	29	$ 2,631
Totals	**40**	**18**[1]	**356**	**$ 33,615**

Note 1: Some emloyees charged hours to multiple codes.

Typically, overhead includes costs such as time off (i.e. holiday, vacation, sick leave, and other fringe time), retirement, and health benefits and insurance benefits. Sections 8.7.1 and 9.2 of the Agreement, cited above, indicate staff rates are fully burdened, or contain all elements of labor burden in the rate. When the staff rates are fully burdened, fringe time should not be charged to the project, as it would result in duplicative costs to the project.

B. Through detailed testing, RSM identified several instances where costs classified as “staff training” were charged to the project. These costs included staff travel expenses to offsite training and catering expenses. The General Conditions cost breakdown does not include a specific line item for staff training. Generally, fringe costs for talent development may be accepted by the Owner when the training directly benefits the project. Although the contract does not specifically define talent development as an allowable or disallowable cost, DGS has accepted training related to Lean project management and scheduling and project management software for this project.

For future projects, we recommend DGS include contract language to better define composition of “fully burdened” staff rates, and to delineate between fringe costs allowed as a cost of work versus those considered disallowed. These components may include, but not be limited to:

- Labor compensation only for the hours CM personnel are performing work on the Owner’s project site
- Optional fringe benefits, as may be provided as an established policy and available to qualified employees, including:
  - Paid holidays, vacation, sick, and other absences
  - Employer’s contribution for employee insurance
  - Employer’s contribution for employee retirement plans
- Employee stock ownership or bonus payments
- Additional liability insurance (i.e. auto), which are not considered an employee benefit
- Time off, and overtime/ premium (i.e. vacation, holiday, and weekend work) – where rates are applied, additional costs for time off should already be included in the rate
- Training – where costs are directly associated with the project, and the allowability of related travel and incidental costs

IMPROVEMENT OPPORTUNITIES

IO.4 Closeout Procedures

Through our discussions with DGS Project management, we understand DGS performs a reconciliation of project costs as part of closeout procedures. In consideration of the Observations and Improvement Opportunities identified above, we recommend DGS consider and incorporate the following in the closeout process:

A. Reconciliation of SDI costs – As identified in Observation #1, the SDI costs were likely calculated to include a CM subsidiary, resulting in a potential overbilling of $70,070. Through inquiry, the CM indicated that an internal "true up" is performed at the end of the project to identify the final and actual costs of subcontractors covered by the SDI policy, thereby determining the final cost of SDI for the project.

   We recommend DGS obtain the list of subcontractors and corresponding final costs from the CM and reconcile the data to validate the amounts are appropriate. During this review, DGS should verify that costs associated with the CM's subsidiary are not included in the calculation of SDI costs.

B. Reconciliation of local labor requirement – As of our testing scope period, through January 2020, the local labor workforce employed on the project was 39%. The project is required to achieve 51% over its lifetime, per Section 12.2.2 of the Agreement. Through our discussions with DGS, we understand projects historically employ a greater number of local labor for scopes performed toward the end of the project.

   §12.2 *Equal Employment Opportunity and Hiring of District Residents*

   > ***§12.2.2*** *The Construction Manager shall ensure that at least fifty-one percent (51%) of the Construction Manager's team and every subconsultant's and subcontractor's employees hired after the execution of the Agreement, or after such subconsultant or subcontractor enters into a contract with the Construction Manager, to work on the Project shall be residents of the District of Columbia. This percentage shall be applied in the aggregate, and not trade by trade.*

   We recommend the Department of Employment Services verify DGS' reconciliation of local labor at the end of the project to validate the workforce achieved 51% of local labor.

C. Reconciliation of contingency – Contingency use throughout the project duration is monitored by DGS. As of July 10, 2020, a balance of $643,325 remained. We understand DGS, in agreement with the CM, will identify the final contingency balance and deobligate the CM's purchase order for that amount, effectively decreasing the CM's contract amount and transferring the savings to DGS.

   During the final reconciliation, we recommend DGS validate that the contingency transferred for use was fully billed, or identify opportunities for additional savings where the CM did not use all contingency approved.

APPENDIX – *TASK A RISK ASSESSMENT*

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
1	Main Agreement	Definitions	Administrative Term	1	1	The Agreement shall have an administrative term (the "Administrative Term") that runs from the effective date of the Notice to Proceed to the Administrative Term Expiration Date set forth in the project Information Section above. In addition, within this time the Construction Manager shall execute and submit a Final Release of Liens and Claims in a form and format required by the Contracting Officer, inclusive of providing the Department with a complete set of any product manuals (O&M) and training videos. The Administrative Term is established for the sole purpose of permitting the Department's Office of the Chief Financial Officer to process payment in the event any payments become due. Notwithstanding the foregoing, nothing herein shall be construed to: extend the Substantial Completion Date; extend the Final Completion Date; or, limit the Department's ability to assess liquidated damages thereon.	Closeout	Final payment is released before Owner is provided the required documents/ materials at project closeout	Low	1. CM final lien release 2. O&M Manuals and training videos (provided to Owner)	1. Obtain CM final lien release. 2. Verify Owner's receipt of O&M manuals and training materials.	1.12	Prior to release of final payment, obtain the closeout documentation as required/ listed in the agreement.
2	Main Agreement	Definitions	Agreement	1	2	The term "Agreement" shall mean this entire, integrated agreement between the Department and the Construction Manager with respect to the Project, consisting of this document and the Exhibits thereto, including but not limited to the Standard Contract Provisions, the Construction Documents released for the Construction Manager's use and any Change Orders or Change Directives that have been executed by the Department.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
3	Main Agreement	Definitions	Client Agency	1	3	The governmental or quasi-governmental entity represented by the Department, requesting the Project.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4	Main Agreement	Definitions	Construction Documents	1	4	The final Drawings and Specifications, as prepared, sealed by the Architect's design professional in accordance with the law, approved by the Owner, and issued by the Architect to the Construction Manager for the purpose of obtaining bids from potential trade subcontractors and material suppliers for use in constructing the Project.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
5	Main Agreement	Definitions	Construction Phase Services	1	5	Services provided throughout the construction phase during which the Construction Manager shall carry out the bulk of the construction of the Project.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
6	Main Agreement	Definitions	Cost of General Conditions	1	6	The Cost of General Conditions shall have the meaning set forth in Section 8.2 of this Agreement.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7	Main Agreement	Definitions	Contract Documents	1	7	The Contract Documents consist of the GMP Amendment including the Construction Manager's Assumptions and Clarifications, the Agreement between the Department and the Construction Manager, any modifications or changes thereof, the Drawings and Specifications and any addenda issued thereto. In the event of a conflict among any of the Contract Documents, the following order of precedence shall prevail: (a) Modifications or changes to the Contract including the GMP Amendment, including the Construction Manager's Assumptions and Clarifications; (b) The Agreement, but excluding the Standard Contract Provisions; (c) The Standard Contract Provisions; (d) The specifications including any addenda issued thereto; and (e) The Drawing including any addenda issued thereto.	Other	Contract language contradicts or supersedes other language in the agreement, and precedence is given to the wrong document	Moderate	1. All executed contract provisions including supplemental terms and addendums	As records are executed and/or conflicts arise, verify the order of documents which take precedence. Specifically, refer to: Main Agreement 1.7 Main Agreement 14.18 Exhibit J 2.2 and 2.3 GMP Amendment 4.2	1.7, 14.18, Exhibit J 2.2 and 2.3, GMP 4.2	Owner/ Contracting Officer executes or applies changes to the contract based on the precedence set forth in the agreement.
8	Main Agreement	Definitions	Preconstruction Phase Services	1	8	The services to be provided under Article 3 constituting the preconstruction phase services to be performed by the Construction Manager'	N/A	N/A	N/A	N/A	N/A	N/A	N/A
9	Main Agreement	Definitions	Drawings	1	9	The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and wherever issued, showing the design, locations and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
10	Main Agreement	Definitions	Final Completion	1	10	The point at which Substantial Completion has been achieved, all punch list items noted at Substantial Completion have been completed and all documents the Construction Manager is required to deliver to the Department as a condition to receiving final payment have been delivered.	Closeout	Final payment is released before punch list items are cleared	Moderate	1. Completed punch list and/or 2. Architect's certificate of completion (noting all punch list items have been completed)	Project step may not be complete during the course of our testwork. 1. Obtain evidence of completed punch list and/or 2. Architect's certificate of completion (noting all punch list items have been completed) 3. Verify punch list completed within 60 days of substantial completion (Final completion)	1.12, 5.14.2	Prior to release of final payment, verify punch list items are complete.
11	Main Agreement	Definitions	Final Completion Date	1	11	60 days after Substantial Completion at which time the Construction Manager shall achieve Final Completion. The Final Completion Date may be modified only by Change Order or Change Directive in accordance with the Agreement	Schedule	Impact to project schedule delay the final completion date.	Moderate	1. Monthly project schedule (detailed)	1. Verify substantial completion and final completion dates agree with agreement (including change orders)	1.16, 1.23	Owner/ Contracting Officer reviews CM's schedule on a monthly basis (or more frequently as required) to monitor the project status and substantial completion and final completion dates.
12	Main Agreement	Definitions	Fully Complete	1	12	To undertake all of the Work necessary to fully construct and complete the Project and execute all tasks necessary to obtain the final certificate of occupancy for the Project from the District of Columbia; submit final lien releases from the Construction Manager and Subcontractors and material suppliers; complete all punch list items to the Department's approval and sign-off; and cause all representations, warranties and guarantees to be honored and otherwise fulfill all of the requirements set forth in the Agreement.	Closeout	Final payment is released before Owner is provided the required documents/ materials at project closeout	High	1. CM final lien release (see 1.1) 2. Subcontractor/ supplier final lien releases 3. Completed punch list (see 1.10) 4. Evidence of all warranties/ guarantees from CM and Subcontractors	1. Obtain CM final lien release (see 1.1) 2. Subcontractor/ supplier final lien releases 3. Obtain completed punch list and verify Department's approval or sign-off (see 1.10) 4. Evidence of all warranties/ guarantees from CM and Subcontractors	1.1, 1.10	Prior to release of final payment, obtain the closeout documentation as required/ listed in the agreement.
13	Main Agreement	Definitions	Guaranteed Maximum Price or GMP	1	13	The maximum amount, including, but not limited to, the Construction Management Fee and the Cost of the Work, that will be paid the Construction Manager to Fully Complete the Project as set forth in Article 5 - . The Guaranteed Maximum Price ("GMP") may be modified only by Change Order or Change Directive in accordance with the Agreement. The GMP shall be established in the GMP Amendment.	Pay Application	CM bills for costs above the agreement sum	High	See 9.1	See 9.1		See 9.1
14	Main Agreement	Definitions	Hazardous Material	1	14	Any toxic substance or hazardous chemical defined or regulated pursuant to federal, state or local laws relating to pollution, treatment, storage or disposal of waste, or protection of human health or the environment. Such laws include, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Clean Water Act, the Clean Air Act and laws relating to emission, spills, leaks, discharges, releases or threatened releases of toxic material. The term Hazardous Materials shall also include petroleum and petroleum bi-products.	Other	See 4.13.2.0	Moderate	See 4.13.2.0	See 4.13.2.0	4.2.13.0	See 4.13.2.0
15	Main Agreement	Definitions	Notice to Proceed	1	15	A written notice to proceed, signed by the Department, directing the Construction Manager to proceed with the Project or any portion of the Project ("Notice to Proceed" or "NTP").	Schedule	Construction begins before appropriate approvals are received	Low	1. Notice to Proceed for Construction phase (see 5.1.1.0)	1. Verify NTP for the construction phase was issued before the construction phase began (see 5.1.1.0)	5.1.1.0	N/A
16	Main Agreement	Definitions	Project Schedule	1	16	The schedule for the Project agreed to by the Department and the Construction Manager. Such schedule shall be updated periodically by the Construction Manager, approved by the Department and as incorporated into the GMP Amendment. The Substantial Completion Date and Final Completion Date upon which the Project Schedule are premised shall not be changed except by a Change Order or Change Directive issued by the Department. The Project Schedule shall be in a form and contain such detail as may be agreed upon by the Parties.	Schedule	Unapproved schedule changes	Moderate	See 1.11	See 1.11	1.11, 1.23	See 1.11
17	Main Agreement	Definitions	Self-Performed Work	1	17	Trade work performed by employees of: (1) the Construction Manager; (2) any entity that is a partner or member of the entity comprising the Construction Manager; (3) any entity that controls, is controlled by, or is under common control with the Construction Manager; or (4) any entity that controls, is controlled by, or is under common control with any entity that is part of the Construction Manager. Self-Performed Work is distinguished from trade work performed by Subcontractors unaffiliated with the Construction Manager or the entities of which the Construction Manager is comprised.	Reporting/ Deliverable	Self-performance or related parties are not disclosed	High	1. Owner approval for self-performed scopes of work 2. Pay application (see 9.1)	See 9.1	9.1	See 9.1
18	Main Agreement	Definitions	Services	1	18	The services to be provided pursuant to the Agreement which shall include the Preconstruction Phase Services and the Construction Phase Services.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
19	Main Agreement	Definitions	Specifications	1	19	The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
20	Main Agreement	Definitions	Standard Contract Provisions	1	20	The District of Columbia Department of General Services Standard Contract Provisions, General Provisions (Construction Contract), as amended is attached hereto as Exhibit J respectively incorporated herein.	N/A	N/A	N/A	N/A	N/A	Exhibit J	N/A
21	Main Agreement	Definitions	Subcontractor	1	21	Any person, natural or legal, to whom the Construction Manager delegates performance of any portion of the Work required by the Agreement. The term "subcontractor," used without a qualifier, shall mean a subcontractor in direct privity with the Construction Manager. "Subcontractors at all tiers" shall mean not only those Subcontractors in direct privity with the Construction Manager, but also those performing Work pursuant to sub-subcontracts, subsubsubcontracts, and so on. "Subcontractors" shall include both those who are retained to perform labor only and those who are retained both to perform labor and to supply material or equipment. "Subcontractors" shall also include design professionals who are not the Construction Manager's employees and to whom the Construction Manager delegates any part of its responsibilities under the Agreement, except that references to "trade Subcontractors" shall exclude design professionals.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
22	Main Agreement	Definitions	Substantial Completion	1	22	Substantial Completion shall mean that all of the following have occurred: (1) the construction and installation work have been completed with only minor punch list items remaining to be completed; (2) a temporary certificate of occupancy and all other required permits or approvals have been obtained; (3) [Intentionally Deleted]; (4) any supplemental training session required by the Agreement for operating or maintenance personnel have been scheduled; (5) all clean-up required by the Agreement has been completed; (6) the Project is ready for the Department and Client Agency to use it for its intended purpose; and (7) all equipment, supplies, materials and items to be installed have been installed in accordance with the Construction Documents and have undergone and passed the requisite testing and inspections. Notwithstanding subparts (2) and (7) of the foregoing sentence, Substantial Completion shall be deemed achieved despite the failure to obtain any required permits, approval, testing or inspection unless the failure is due to a failure by the Construction Manager to complete the physical work in accordance with the Contract Documents or make arrangements for such testing, inspection, permits and approvals. "Minor punch list items" are defined for this purpose as items that, in the aggregate, can be completed within sixty (60) days without interfering with the Department or Client Agency's normal use of the Project.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
23	Main Agreement	Definitions	Substantial Completion Date	1	23	The date by which the Construction Manager shall achieve Substantial Completion. The Substantial Completion Date may be modified only by Change Order or Change Directive in accordance with the Agreement.	Schedule	Unapproved schedule changes	Moderate	See 1.11	See 1.11	1.11, 1.16, 14.21	See 1.11
24	Main Agreement	Definitions	Work	1	24	The term ""Work" refers to any and all work done in performance of the Services necessary, at any and all phases of the Agreement, to Fully Complete the Project.	N/A	N/A	N/A	N/A	N/A		N/A
25	Main Agreement	General Provisions	Letter Contract	2	1.0.0	The Parties acknowledge that certain of the preconstruction activities described in Article 3 of this Agreement as well as certain physical work associated with the swing space for the Project were performed pursuant to the Letter Contract between the parties dated July 19, 2018. Pursuant to the terms of the Letter Contract, upon execution of this Agreement by the Department (the "Agreement Effective Date"), the Letter Contract shall automatically terminate and shall merge into and be superseded by this Agreement. For avoidance of doubt, any services provided or work performed pursuant to the merged Letter Contract, and prior to the date that this Agreement is effective, shall be governed by the terms and condition of this Agreement.	Other	Duplication of billing for services previously paid under the Letter Contract	Moderate	Letter Contract, dated July 19, 2018	1. Obtain understanding of the scope of work performed under the "Letter Contract" and payments made related thereto. 2. Validate that duplication of payments for overlapping scope did not occur.	Article 3	N/A

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Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
26	Main Agreement	General Provisions	Term and Termination	2	2.0.0	The period of performance under this Agreement shall commence from the date of execution of the Letter Contract by the Department and shall terminate upon the expiration of the Administrative Term or upon termination by the Department pursuant to Articles 5 and 6 of the Standard Contract Provisions	N/A	N/A	N/A	N/A	N/A		N/A
27	Main Agreement	General Provisions	Relationship of Parties	2	3.0.0	The Construction Manager accepts the relationship of trust and confidence established with the Department by this Agreement, and covenants with the Department to furnish the Construction Manager's reasonable skill and judgment and to cooperate with the Program Manager in furthering the interests of the Department. The Construction Manager shall use its best efforts to perform the Work and complete the Project in an expeditious and economical manner consistent with the interests of the Department. The Department shall endeavor to promote harmony and cooperation among the Department, Construction Manager, the Architect, Program Manager, and other persons or entities employed by the Department for the Project. In performing its duties under this Agreement, the Construction Manager shall at all times use the standard of care used by Construction Managers that construct projects similar to the Project in type, size and scope in large, urban areas. Whenever the term "competent" is used herein to describe the Construction Manager's actions or duties that term shall refer to the level of competence customarily possessed by the construction managers that construct projects similar to the Project in type, size and scope in large, urban areas. The parties acknowledge that no fiduciary relationship is intended by the Contract Documents	N/A	N/A	N/A	N/A	N/A		N/A
28	Main Agreement	General Provisions	Confidentiality of Information	2	4.0.0	The Construction Manager shall assure and keep all information and data obtained throughout the performance of the Project whether related to the Agreement, the Work in all of its aspects, the Department and the Department's employees confidential, during and following the term of the Agreement, and shall not use the information in connection with any other matters; nor shall it disclose any such information to any other person, firm or corporation, unless disclosure is required pursuant to court order, subpoena or other regulatory authority. The Construction Manager shall not be divulged of confidential information without the individual's and the Department's written consent and only in accordance with the District's or Federal's laws, codes and regulations. The Construction Manager and any Subcontractors who utilize, access, or store personally identifiable information as part of the performance of this Agreement are required to safeguard this information and immediately notify the Department of any breach or suspected breach in the security of such information. The Construction Manager and all Subcontractors shall allow the Department to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. The Construction Manager, Subcontractors and their respective employees working on this Project may be required to sign a confidentiality statement.	N/A	N/A	N/A	N/A	N/A		N/A
29	Main Agreement	General Provisions	Project Description	2	5.0.0	The Project consists of preconstruction and construction services necessary to modernize and/or construct Eliot-Hine Middle School as shown on Exhibit A. Eliot-Hine Middle School consists of roughly 157,800 gross square feet. The existing Eliot-Hine building was originally constructed in in, with an east wing addition in 1936, and a 1964 addition of a gymnasium wing, a third floor addition to the north wing of original 1931 building, and a northeast wing addition. The school serves students from grade 6 to grade 8. Currently, the school serves a population of 200 students per school year. It is anticipated the school attendance will grow to a maximum of 405 students per year in the next eight years. The school also follows the Behavior and Education Support ("BES"), and the Communication and Education Support ("CES") curricula from the District of Columbia Public Schools ("DCPS") educational stream, as well as hosting an International Baccalaureate program. The building underwent roof replacement for the eastern wings of the facility and exterior door replacement in 2017, exterior and interior door replacements in 1990, and exterior window replacements in 1988. District of Columbia Public Schools desires to expand the school in order to accommodate approximately 480 students (final number to be determined in the concept phase). Since accommodating 480 students would only require about 89,103 of renovated square feet, depending on what the below mentioned feasibility study discovers, it is not anticipated that a 480 student program will require all of the existing 157,800 square footage. The Department has engaged the Architect to work with DGS, DCPS, and the Construction Manager to determine the optimal use of the extra square footage, including the currently unused West Wing, if it will not continue to be used as swing space for DCPS use. The Project shall achieve at a minimum LEED Gold for Schools certification. The Project shall be designed in such a way so as to allow for substantial completion to be achieved no later than the Substantial Completion Date.	N/A	N/A	N/A	N/A	N/A		N/A
30	Main Agreement	General Provisions	Program Manager	2	6.0.0	The Department has engaged a Program Manager to provide certain program management functions. Such Program Manager shall, at all times, be acting solely for the benefit of the Department, not the Construction Manager. The Construction Manager hereby acknowledges and agrees that only a duly authorized and designated contracting officer shall have the authority to issue Change Orders or Change Directives on the Department's behalf. As of the date that this Agreement is signed, the Department's duly authorizing contracting officers are set forth in Exhibit I.	Change Order	Change orders are issued by unauthorized personnel	Low	See 17.2	See 17.2		Workflow routing all change orders through Program Manager
31	Main Agreement	General Provisions	General Description of Construction Manager's Duties	2	7.0.0	Generally, the Construction Manager shall perform the Services in accordance with Section 2.3. The Construction Manager shall supply and furnish at the location where the Work is to be performed all labor, materials, equipment, tools, services, and supervision, and shall bear all items of expense, necessary to complete and satisfactorily perform this Agreement, except such items that the Department specifically agrees to supply or furnish to or for the use of Construction Manager. Any labor, materials, equipment, tools, services or supervision not specifically described in this Agreement, but which may be reasonably inferred from the Contract Documents as required thereby or necessary to properly complete the Work, shall be deemed within the Scope of the Work and shall be provided by Construction Manager without increase to the GMP.	N/A	N/A	N/A	N/A	N/A		N/A
32	Main Agreement	General Provisions	Warranties and Representations	2	8.1.0	All disclosures, representations, warranties, and certifications the Construction Manager makes in its proposal in response to the RFP shall remain binding and in effect throughout the term of the Agreement. The Construction Manager reaffirms that all such disclosures, representations, warranties, and certifications are true and correct to the best of the Construction Manager's knowledge information and belief.	N/A	N/A	N/A	N/A	N/A		N/A
33	Main Agreement	General Provisions	Warranties and Representations	2	8.2.0	If any disclosure, representation, warranty or certification the Construction Manager has made or makes pursuant to the RFP or the Agreement, including, without limitation, representations concerning the Construction Manager's construction or design experience and qualifications, claims or litigation history or financial condition, is materially inaccurate, that shall constitute a material breach of the Agreement, entitling the Department to any and all available remedies.	N/A	N/A	N/A	N/A	N/A		N/A
34	Main Agreement	General Provisions	Warranties and Representations	2	8.3.0	The terms and conditions of this Section 2.8 shall apply during both the Preconstruction and Construction Phases.	N/A	N/A	N/A	N/A	N/A		N/A
35	Main Agreement	General Provisions	Responsibility for Agents and Contractors	2	9.0.0	At all times and during both the Preconstruction and Construction Phases, the Construction Manager shall be responsible to the Department for any and all acts and omissions of the Construction Manager's agents, employees, Subcontractors, Sub-Subcontractors, material suppliers, and laborers, and the agents and employees of the Subcontractors, Sub-Subcontractors, material suppliers, and laborers performing or supplying Work in connection with the Project.	N/A	N/A	N/A	N/A	N/A		N/A
36	Main Agreement	Construction Manager's Preconstruction Services	Preconstruction Services	3	1.0.0	During the Preconstruction Phase, the Construction Manager shall provide such preconstruction services as are necessary to properly advance the Project without limiting the generality of the foregoing, during the Preconstruction Phase, the Construction Manager shall: (i) work with the Architect and any design consultants to advance the design for the Project in consultation with Client Agency, the Department and its Program Manager (ii) obtain bids from trade subcontractors to perform the work described in the Construction Documents and provide bid tabulations to the Department (iii) engage in any value engineering and scoping exercises necessary to return the Cost of the Work to the Project Budget (iv) engage in preconstruction activities, including identifying any long-lead items, scheduling, estimating, and shop drawings; (v) develop a GMP proposal for the Project (vi) enter into a GMP for the Project. Throughout the Preconstruction Phase, the Construction Manager shall schedule and attend regular meetings with the Department, the Program Manager and the Architect. A list of preconstruction deliverables is set forth in Exhibit C.	N/A	N/A	N/A	N/A	N/A		N/A
37	Main Agreement	Construction Manager's Preconstruction Services	Preconstruction Services	3	1.1.0	In addition to those items enumerated above, the Construction Manager shall provide by Change Order such preconstruction services as are necessary to properly advance the Project as follows: condition assessments conservator studies, archeological studies, recommended testing, additional geotechnical testing, and monitoring of historic assets.	N/A	N/A	N/A	N/A	N/A		N/A

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38	Main Agreement	Construction Manager's Preconstruction Services	Preconstruction Services	3	2.1.0	The Construction Manager shall prepare a preliminary schedule for the project, including the preconstruction phase activities and the construction phase activities ("Baseline Schedule"). This schedule shall be prepared in a Critical Path Method ("CPM") and be developed in a sufficient level of detail so as to permit the affected parties (i.e. the Department, the Architect and the Construction Manager) to properly plan the Project and shall show: (i) key design milestones and bid packages; (ii) release dates for long lead items; (iii) release dates for key subcontractors; and (iv) substantial and final completion dates. The preliminary schedule shall include the durations for DGS and Client Agency reviews of the interim design submissions as reflected in the milestone schedule set forth in the RFP unless the parties agree otherwise. The preliminary schedule must also be submitted in Primavera 6 native format or the latest version of the software. The preliminary schedule is attached hereto as Exhibit B. During the Preconstruction Phase, the Construction Manager shall monitor the Project's progress and promptly notify the Department of any delays, regardless of their cause, the causes of such delay, and the Construction Manager's best projection of the effect of such delays on the project Schedule. The Department's receipt of, and lack of objection to, any schedule update showing a later Substantial Completion or Final Completion shall not be regarded as the Department's agreement that the Construction Manager may have an extension of time, or as a waiver of any of the Department's rights, but merely as the Construction Manager's representation that, as a matter of fact, the Project may not be completed by the applicable Substantial or Final Completion Date. The project Schedule shall be maintained and continuously updated during the Preconstruction and Construction Phases.	Schedule	Management decisions are adversely effected due to project progress not being tracked effectively.	Moderate	Baseline Schedule with evidence of continuous monitoring	1. Validate that the baseline schedule is updated as needed. 2. Assess schedule delays approved via Change Orders, and reconcile to the updated schedule for the period in which the Change Order was approved.	14.21	Meet periodically to ensure baseline schedule is updated as needed.
39	Main Agreement	Construction Manager's Preconstruction Services	Preconstruction Services	3	2.2.0	The Construction Manager shall submit a draft of its construction management plan ("Construction Management Plan") within fourteen (14) days after the Preconstruction NTP is issued to include, but is not limited to, noise control, hours for construction and deliveries, truck routes, trash and debris removal plan, traffic and parking control, communications procedures, emergency procedures, quality control procedures, dust control, public street cleaning and repair, planned occupancy of public ways, erosion control, tree protection plan, vibration monitoring, temporary fire protection measures, project signage, pest control, construction staging plan, and construction logistics plan.	Reporting/ Deliverable	Management decisions are effected due to a lack of important information.	Moderate	Construction Management Plan Preconstruction NTP	Validate that CMP was provided w/in 14 days		Program office reviews the Construction Management Plan for reasonableness
40	Main Agreement	Construction Manager's Preconstruction Services	Design Reviews and Preconstruction Deliverables	3	3.0.0	It is contemplated that the Construction Manager will have met with representatives of the Department as well as other stakeholders to better develop the Department's requirements for the project following contract award. During the Preconstruction Phase, the Construction Manager will be required to work with the Architect as the Architect develops design documents for the Project and progresses those design documents in accordance with the Project Budget	N/A	N/A	N/A	N/A	N/A		NA
41	Main Agreement	Construction Manager's Preconstruction Services	Design Reviews and Preconstruction Deliverables	3	3.1.0	[Intentionally Omitted]	N/A	N/A	N/A	N/A	N/A		NA
42	Main Agreement	Construction Manager's Preconstruction Services	Design Reviews and Preconstruction Deliverables	3	3.2.0	The Department may release funding for hazardous materials abatement and selective demolition, and funding for long-lead items. If the Construction Manager believes an early release is required for long-lead materials in order to meet the Project Schedule, it shall advise the Department and make a recommendation as to the requested release date. Similarly, if the Construction Manager believes that additional work must be released in advance of the establishment of a GMP for the Project, it shall advise the Department and make a recommendation as to the scope of work to be released as well as to the requested release date. Further, any decision to authorize an early release shall be made by the Department in its sole and absolute discretion. An early release, if authorized, will be based on 100% construction documents.	N/A	N/A	N/A	N/A	N/A		NA
43	Main Agreement	Construction Manager's Preconstruction Services	Design Reviews and Preconstruction Deliverables	3	3.3.0	Concurrently with the design development estimate, the Construction Manager shall prepare a memorandum identifying key construction concerns related to the Project. Such memorandum shall: (i) assess the constructability issues related to the Project, including site logistics; (ii) identify any items where the design is predicated on a single manufacturer and, if so, identify at least two (2) comparable products; and (iii) identify any long-lead delivery items that could adversely affect the Baseline Schedule. To the extent any such long-lead items are identified, the memorandum shall make recommendations for addressing such items. Based on Project schedule requirements and with approval of the Department, Construction Manager may utilize Turner Logistics for the competitive procurement of long lead equipment. Turner Logistics shall be entitled to a mark-up of eight and one half percent (8.5%) on the cost of any such material or equipment purchases as Turner Logistics' cost of service.	Reporting/ Deliverable	Management is unaware of potential problems that would effect the progress/decision making of the project	Moderate	Memorandum identifying key construction concerns related to the Project	Validate that memo was provided in concurrence with the design development estimate		Program office reviews the memorandum of key construction concerns and assists in development of action plans to remediate identified issues.
44	Main Agreement	Construction Manager's Preconstruction Services	Design Reviews and Preconstruction Deliverables	3	3.4.0	The Architect shall be responsible for preparing and submitting all of the permit applications that are necessary to complete the Project. The Architect shall develop a list of the required permits and shall track the progress of all such permits through the review process. The Architect shall update the Department and the Construction Manager with the status of each permit that is required for the Project. The Department and/or the Architect shall engage permit expediters as the Department deems necessary or appropriate in light of the project's schedule for the foundation to grade permit and pay the associated permit and review fees. The Construction Manager shall include an allowance in the GMP for permit expediting, and permit and review fees for the building permit in an amount determined by the Department.	Allowances	Permit expediting is not expensed from the appropriate line item	Low	1. Allowance log / GMP schedule of values	Validate format of the GMP; ensure the GMP is certified by the Construction Manager		Certification of the GMP by the Construction Manager
45	Main Agreement	Formation of GMP Proposal	General	4	1.0.0	During the Preconstruction Phase, the Architect shall prepare a set of Drawings and Specifications upon which, together with the Construction Manager's assumptions and clarifications, shall serve as the basis of the Construction Manager's guaranteed maximum price proposal (such Drawings and Specifications, the "GMP Basis Documents"). The GMP Basis Documents will be based on 100% Construction Documents. The Construction Manager shall propose a GMP (referred to as the "GMP Proposal") which shall be submitted in accordance with this Article. The Construction Manager's GMP Proposal shall represent the Construction Manager's offer for the Final Completion the Project. If the Construction Manager's GMP proposal is acceptable to the Department, it shall be memorialized in form of an amendment to this Agreement (such amendment, the "GMP Amendment"). The GMP amendment shall be in the form of Exhibit L attached hereto. As part of the GMP Amendment, the Construction Manager shall certify that the GMP established thereby (i) contains sufficient amounts to perform all Work necessary for the Final Completion of the project; and (ii) contains sufficient amounts to provide and construct any items or facilities that are not shown on the GMP Basis Documents but which are reasonably inferable therefrom. The Construction Manager will further covenant and agree in the GMP Amendment that it will perform all of the construction work necessary for the Final Completion of the Project, including, without limitation, aspects of the Work that are not shown on the GMP Basis Documents but which are reasonably inferable from the GMP Basis Documents, for an amount not to exceed the Guaranteed Maximum Price.	Reporting/ Deliverable	An incomplete accounting of the necessary work will result in an inaccurate GMP	Low	GMP	Validate format of the GMP; ensure the GMP is certified by the Construction Manager		Certification of the GMP by the Construction Manager
46	Main Agreement	Formation of GMP Proposal	Review of GMP Basis Documents	4	2.0.0	The Department has selected the Construction Manager, in large part, because of its special expertise in constructing similar projects. Before submitting its Guaranteed Maximum Price the Construction Manager shall review the GMP Basis Documents for constructability and for the purpose of facilitating coordination and construction by the Construction Manager. The parties acknowledge that such review is not for the purpose of discovering errors, omissions or inconsistencies in the Contract Documents; however, the Construction Manager shall report to the Architect any errors, omission or inconsistencies discovered by the Construction Manager. It is recognized that the Construction Manager's review is made in the Construction Manager's capacity as a contractor and not as a licensed design professional. To the extent that any such deficiencies, exclusive of design efforts or omissions, in the GMP Basis Documents could have been identified by such review by a competent construction manager, such deficiencies shall not be the basis for a change in the GMP or delaying the Project Schedule.	Reporting/ Deliverable	There are material errors contained in the GMP Basis documents, causing the GMP proposal to be inaccurate.	Moderate	Report by the Construction Manager to the Architect concerning any errors, omission or inconsistencies discovered by the Construction Manager in the GMP basis documents.	Review the report to the Architects to verify Construction Manager reviewed GMP documents for any errors, omission or inconsistencies discovered by the Construction Manager.		Require GC to provide evidence of their review even if no errors are found.
47	Main Agreement	Formation of GMP Proposal	Contingency	4	3.0.0	The Cost of the Work shall include a contingency, set up for the purpose of enabling the Construction Manager to be reimbursed, as Cost of the Work, for unanticipated costs reasonably inferable from the Contract Documents including unanticipated market conditions, labor and material conditions, overtime, issues arising under Section 4.2, bidder and subcontractor defaults or deficiencies, buyout overruns, costs attributable to schedule recovery, interfacing omissions between and from the various work categories, and costs attributable to schedule acceleration, or any other reason not stemming from the Construction Manager's gross negligence or willful misconduct. No part of this contingency may be used by the Construction Manager without first submitting to the Department a written request for a specific amount and justification for its use, and without receiving the Department's written approval. This approval will not be unreasonably withheld and shall be given whenever consistent with the uses of contingency described in this paragraph. The contingency may be reduced by agreement of the Department and the Construction Manager through deductive Change Order as actual work is put in place, should the Construction Manager in Construction Manager's sole discretion determine that a portion of the contingency will not be needed. The contingency is for the sole and exclusive use of the Construction Manager and is not for use by the Department for reasons including scope increases, concealed conditions, design changes, nor is the contingency to be used to address any matter for which Construction Manager is entitled to an adjustment or Change Order, unless and to the extent the contingency has been reduced by deductive Change Order as described in this paragraph	Contingency	Expenses are overstated and paid due to overstated or fictitious contingencies reported by the GC.	High	1. Contingency log 2. Executed contingency use/ request 3. Deductive change order for unused contingency	Project work may not be complete for during the course of our testing. 1. Reconcile CM's contingency log to executed contingency modifications 2. Verify contingency modifications are properly executed, mathematically accurate, contain appropriate supporting documentation, is an appropriate use (per 4.3) 3. Reconcile the deductive change order for unused contingency to the executed contingency modifications and contingency log.		Monitor contingency use by reviewing the CM's contingency log (monthly). Review contingency modification requests for appropriate support and are for uses allowed by the agreement.

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
48	Main Agreement	Formation of GMP Proposal	Contingency	4	3.1.0	This Section 4.3.1 sets forth the Department's guidelines for capital eligible expenditures. These guidelines are provided for reference purposes only, and any and all determinations regarding capital eligibility shall be made by the Department. The Construction Manager shall provide reasonable information necessary for the Department to make such determinations during the GMP negotiations, and in connection with the approval of contingency draws and allowance use requests. **General Restrictions for Capital Financing Eligibility** **To be eligible for funding in the capital budget, a project must result in a District owned asset, and be of sufficient value (minimum $2501000) to be carried on the books as such and depreciated over the life of the project, which is five or more years.** In general, to be capital eligible the project must also result in one of the following; a. A new District owned asset, b. Increase the value of an existing District owned asset,	N/A	N/A	N/A	N/A	N/A		NA
49	Main Agreement	Formation of GMP Proposal	Contingency	4	3.1.1	The following are examples of categories of projects eligible for capital financing: a. Construction or acquisition of a public facility to be owned, occupied, and for use by the District for the useful life of the asset. b. Large-scale replacement and rehabilitation of existing public facilities c. Improvements to economic development projects owned by the District d. Design work relating to an individual capital project (if the project is implemented/constructed). e. Land purchased for building sites, recreation, rights-of-way, and other public purposes owned by the District and with access and use by the general population. f. Replacement or rehabilitation of major mechanical systems (such as HVAC, Electrical or entire lighting systems) or structural components of existing public (District owned) facilities g. Alteration of an existing public facility to make it more functional for a new use, including temporary relocation costs of an existing use h. Furniture, fixtures and equipment associated with construction or substantial rehabilitation of a public facility (not to exceed 10 percent of project's total budget). The items must support the primary function of the facility, but are not a part of the structure. Examples are shelving, light fixtures, and the opening day collection (inventory) of library books for a public library. Further, if the removal of these items does not cause damage to the facility, they are NOT eligible. Affixed shelving, fixed lighting, and certain large kitchen appliances are examples. i. Construction and rehabilitation of rights of way and public infrastructure (roads and bridges), including storm water management systems) j. Major information technology projects (with a 5 year minimum useful life and $250,000 cost) k. Hazardous materials remediation costs, e.g., asbestos removal and abatement, landfill clean-up, etc. l. Grading and site preparation work m. Trees planted on property owned by the District n. Significant information technology investments, including hard wiring of a facility, hardware, and software purchases including the manufacturer's standard term of warranty o. Pieces of artwork in excess of $250,000 per unit (see further discussion in 4.3.1.3 h) p. Roof membrane sealing - often referred to as a GacoRoof opt 'cool roof'. Use of this process on a roof that is due to be replaced and is otherwise structurally sound, precludes the need to remove any part of the old roof structure, while essentially replacing the roof with a new guarantee against leakage. *See Item III h. below for further explanation on conditions for eligibility*. q. Solar Panels which must; be the exclusive property of the District, be installed on District owned assets, have an estimated economic life of more than 25 years, and have a positive return on the investment (measureable lowered	N/A	N/A	N/A	N/A	N/A		NA
50	Main Agreement	Formation of GMP Proposal	Contingency	4	3.1.2	The following are examples of categories of projects NOT eligible for capital financing: a. Project does not result in as asset that will be owned by the District for the useful life of the asset. b. Project (or the work being performed) does not increase the value of an already existing District asset. c. Project (or work being performed) does not increase the useful life of an existing District asset by a minimum of two years. d. Improvements to private property, including District owned property used for private purposes. Items that are not of a permanent nature, such as window air conditioners, computers, security cameras (even if attached to a District facility), window coverings etc. e. Items that are not permanently affixed to a public facility such that removal of the item would cause damage to the public facility f. Items involving recurring maintenance of facility or systems and/or frequent repairs g. Items that occupy floor space but require no permanent connection to utilities (hard-wired to electrical or gas supply) or the structure h. Items not requiring floor space but that sit on top of other equipment and will require special outlets. i. Artwork which has less than $250,000 unit cost. j. Specific examples of items NOT eligible for capital financing include: i. Real property purchased for re-sale in the immediate or short term to a private entity or developer. ii. Moving expenses (contact the Office of Budget and Planning if you have further questions on this item). iii. Daily maintenance iv. Scheduled maintenance v. Extended warranties vi. Replacement furniture, painting, and carpeting vii. Replacement modular furniture viii. Grounds maintenance ix. Replacement books for public libraries x. School text books or library books for a school xi. Technology refreshes (except for major version upgrades). The software version number is the indicator of the extent of an upgrade. Going from version 3.0.2 to version 3.0.3 is not considered a major upgrade. Moving from 3.0.5 to 4.0 is a major upgrade - as can be seen from the first number to the left of the decimal Place. xii. Audio-visual equipment including security cameras and monitors Exception: white boards of >$5'000 each for school modernization, including the PC necessary to utilize the white board k. Mechanical and HVAC system maintenance, except for replacement of component parts that extend the useful life of the asset, such as a motor or air handler l. Personal computers, laptops, pads, tablets, peripheral computer equipment, and telephones m. Moveable partitions (not affixed to the floor such that removal causes damage to the facility) n. 'Window guards (security bars)	N/A	N/A	N/A	N/A	N/A		NA

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
51	Main Agreement	Formation of GMP Proposal	Contingency	4	3.1.3	a. Community gardens built on District owned property (These cannot be booked as assets since the gardens do not add value to the asset or extend the life of the asset. Individual components - as presented in the request of September 2013 - the fences, tool sheds, and the watering systems, can be booked individually as assets since they meet the $5,000 asset value threshold. The remainder of the items proposed as part of the 'gardens' do not qualify individually and would thus have to be operating expenses.) b. Feasibility studies and strategic plans. Conducting feasibility studies on a possible capital project does not qualify since it does not result in a new district asset (Initially, feasibility studies must be charged as operating expenses.) i. Resulting in the implementation of an eligible capital project (If a study/charrette result ultimately gets incorporated into the design of a capital project, then the expenditure can be reversed from operating and be charged to capital - as a part of the book value of the asset.) ii. Not resulting in the implementation of an eligible capital project (These would remain operating expenses.) c. Costs associated with build-out of leased space by a District agency as "tenant" i. Minimum lease term (It must be a District 'capital' lease, and the term must be a minimum of 10 years.) 1. A capital lease is defined by the following; a. Ownership transfers at end of the lease term, b. Present Value of minimum lease payments must be >907o of fair value of the asset, c. There is no 'bargain purchase' arrangement in the lease and, d. The lease term is greater or equal to 757o of the economic life of the asset. ii. Minimum cost threshold? Like all capital projects - it must be a minimum of $250,000 in the agreed-to lease. As a reminder, FF&E expenditures are only allowable if their removal would result in damage to the asset being leased e.g. the building. Additionally, the changes must be permanent in nature (even after our lease expires) and, must be for the benefit of the District during the lease term. d. Building Signage - that is part of a new building's construction or renovation and intended to be permanently attached is considered to be included as part of the total building project and capitalized if the total project cost is $250,000 or greater. i. Signage is considered permanently attached when removal of the signage would cause structural damage to the building, defacement to the property, damage to the sign and./or would require professional removal, such as the removal by a professional electrician. ii. Examples of signage in new building construction or renovations that could be permanently attached include: 1. Major building identification signs placed inside the building structure at each major entrance which list departments, offices and floors; Wall-mounted directional signage which reinforces circulation within the building; Exit and restroom signage; and scoreboards that are permanently attached to the building structure. e. Land Improvements Signage - that is outside and not permanently attached to a building is considered a land improvement. Signage that is part of a land improvement project should be included in the total project cost and capitalized if the project cost is $250,000 or greater. i. Examples of signage that could be considered land improvements include the following permanently affixed signage: 1. Identification signage which introduces and welcomes visitors to your facility. 2. Directional signage which offer motorists and pedestrians the direction and information they need to make their	N/A	N/A	N/A	N/A	N/A		NA
52	Main Agreement	Formation of GMP Proposal	Trade Bids	4	4.1.0	During the Preconstruction Phase, the Construction Manager shall seek to develop subcontractor interest in the Project. Concurrently with the design development estimate, the Construction Manager shall provide to the Department for its review and approval a written submission on the proposed bidding procedures. Such procedures shall include: (i) a list of proposed trades packages; (ii) a list of trade subcontractors that will be invited to bid on each sub package; and (iii) a narrative description of the process. At least three (3) potential subcontractors shall be identified for each trade package. A copy of this deliverable must be submitted to both the COTR and the Contracting Officer. In the event the Department does not approve the proposed bidding procedures within fifteen (15) days after its receipt, such procedures shall be deemed approved unless the Department advises that such is still under review.	Subcontractors	Contractor does not achieve best value in subcontracting due to inadequately competitive solicitation	High	Proposed bidding procedures; Bid tabulation for all subcontracted work; Bids received with support Resulting subcontract (Awardee)	1. Agree bids received to the tabulation 2. Verify winning bidder was awarded the work 3. Verify that awardee was given approval within 15 days of submission 4. Verify bidding procedures were followed 5. Confirm that final award was a firm fixed price subcontract; if not, it should be awarded on such other basis subject to the Department's consent as to the bidding procedures and economic structure with regard to those packages		Review all bid winners to ensure proper bidding procedures were followed and document approval
53	Main Agreement	Formation of GMP Proposal	Trade Bids	4	4.2.0	Following the Department's approval of the GMP Basis Documents, the Construction Manager shall manage the trade bidding process in accordance with the approved bidding procedures and shall use commercially reasonable best efforts to solicit at least three (3) qualified and bona fide bids for each trade package that has an expected value in excess of One Hundred Thousand Dollars ($100,000). Trade packages shall not be parceled, split or divided to avoid the $100,000 threshold. In addition to the information normally required in such bids, the Construction Manager shall also require subcontractors to provide an estimate of the percentage of labor hours performed in completing the subcontracted work which will be performed by District residents. The Construction Manager shall carefully document its procedures for making available bid packages to potential bidders, the contents of each bid package, discussions with bidders at any pre-bid meetings, bidders' compliance with bid requirements, all bids received, the Construction Manager's evaluations of all bids, and the basis for the Construction Manager's recommendation as to which bidders should be chosen. The Department shall be afforded access to all such records at all reasonable times so that, among other things, it may independently confirm the Construction Manager's adherence to all requirements, set forth in the Agreement, including, without limitation, affirmative action requirements and subcontracting requirements.	Subcontractors	By splitting up subcontracting packages so that they do not exceed the $100,000 threshold, Contractor does not achieve best value in subcontracting by avoiding competitive bidding	Moderate	Refer to 4.4.1	Refer to 4.4.1		Refer to 4.4.1
54	Main Agreement	Formation of GMP Proposal	Trade Bids	4	4.3.0	As part of the negotiations leading up to the GMP, the Construction Manager shall provide to the Department tabulations of the trade bids solicited and copies of all trade bids. In general, the bid tab shall be presented in tabular format that compares the bids received and any other relevant information (i.e. exclusions, past performance history, etc.). The bid tabulation shall include scope assessments and identify required leveling of the trade submitted. To the extent that the Construction Manager's award recommendation is based on scoping adjustments, the Construction Manager shall clearly identify the scoping adjustment and the need for such adjustments. Such bid tabulation shall include LSDBE utilization information in addition to price and other information. Such bid tabulations as well as copies of the bids shall be submitted to the Department's Program Manager. The Construction Manager represents and warrants that the bid tabs so submitted shall fairly represent the results of the subcontractor bidding process and that the Construction Manager shall not misrepresent any such data to the Department or its Program Manager.	Subcontractors	Management decisions are inadequately informed due to inaccurate data on the bid tabulation.	Moderate	Refer to 4.4.1	Refer to 4.4.1		Refer to 4.4.1
55	Main Agreement	Formation of GMP Proposal	Value Engineering	4	5.0.0	Based on the trade bids received, the Construction Manager shall prepared a written report of suggested value engineering strategies necessary to reconcile the costs of constructing the Project Budget. The Construction Manager shall meet with the Architect and the Department's representatives to discuss value engineering and changes in scope in an effort to meet the Department's schedule and programmatic requirements without exceeding the Project Budget. The Department shall cause the Architect to implement any approved value engineering strategies, including developing any supplemental Drawings or Specifications that may be required, and the Construction Manager shall provide pricing	Reporting/ Deliverable	Unnecessary costs are incurred.	Low	A written report of suggested value engineering strategies	GMP includes language in 4.6		Construction Manager and Architect meet to validate plan
56	Main Agreement	Formation of GMP Proposal	Basis of Guaranteed Maximum Price	4	6.0.0	The Construction Manager shall include with the GMP Proposal a written statement of its basis, which shall include:	Reporting/ Deliverable	Management decisions are adversely effected due to insufficient support of the GMP Proposal.	Moderate	GMP Proposal and a statement includes: 1. List of Drawings and Specifications, including all addenda and General, Supplementary and other Conditions which were used in the preparation 2. List of Unit Prices and Allowance Items and a statement of their basis (and evidence allowance items were agreed to) 3. A list of the clarifications and assumptions 4. If applicable, a memorandum that highlights any differences between the then approved drawings and the modifications made in the assumptions and clarifications 5. An updated schedule 6. The proposed GMP 7. The subcontracting plan 8. List of Key Personnel 9. Identification of the Manager's key representative	Validate that the GMP Proposal includes sufficient support for it's basis and that it contains all elements required in Article 4.6.1- 4.6.9, 4.11	4.6.1 - 4.6.9, 4.11	Conduct a detailed review and negotiation of the GMP prior to executing the amendment for the final GMP total.
57	Main Agreement	Formation of GMP Proposal	Basis of Guaranteed Maximum Price	4	6.1.0	GMP Basis Documents which shall include a list of the Drawings and Specifications, including all addenda thereto, and General, Supplementary and other Conditions which were used in preparation of the GMP Proposal and on which the GMP is based.	Reporting/ Deliverable	See 4.6	Moderate	See 4.6	See 4.6		See 4.6
58	Main Agreement	Formation of GMP Proposal	Basis of Guaranteed Maximum Price	4	6.2.0	A list of Unit Prices and Allowance Items and a statement of their basis; provided, however, that only such allowances as are agreed to by the Department shall be included.	Reporting/ Deliverable	See 4.6	Moderate	See 4.6	See 4.6		See 4.6
59	Main Agreement	Formation of GMP Proposal	Basis of Guaranteed Maximum Price	4	6.3.0	A list of the clarifications and assumptions made by the Construction Manager in the preparation of the GMP Proposal to supplement the information contained in the Drawings and Specifications, noting in particular any exclusions. The assumptions and clarifications shall take precedence over the Drawings and Specifications. The Construction Manager shall prepare a separate memorandum that highlights any differences between the then approved drawings and the modifications made in the assumptions and clarifications. Such memorandum shall specifically address any changes in the Project's aesthetics, functionality or performance.	Reporting/ Deliverable	See 4.6	Moderate	See 4.6	See 4.6		See 4.6
60	Main Agreement	Formation of GMP Proposal	Basis of Guaranteed Maximum Price	4	6.4.0	The proposed GMP, including a statement of the detailed cost estimate organized by trade categories, allowances, Contingency, and other items and the fee that comprise the GMP.	Reporting/ Deliverable	See 4.6	Moderate	See 4.6	See 4.6		See 4.6
61	Main Agreement	Formation of GMP Proposal	Basis of Guaranteed Maximum Price	4	6.5.0	An update to the Project's schedule to which the Construction Manager will agree to be bound. This update shall be prepared in the same level of detail and in the same manner as the Baseline Schedule.	Reporting/ Deliverable	See 4.6	Moderate	See 4.6	See 4.6		See 4.6
62	Main Agreement	Formation of GMP Proposal	Basis of Guaranteed Maximum Price	4	6.6.0	A subcontracting plan setting forth the names and estimated dollar volume of the work that will be perform by local, small, and disadvantaged business enterprises, as certified by the Department of Small and Local Business Development, upon which the GMP is based.	Reporting/ Deliverable	See 4.6	Moderate	See 4.6	See 4.6		See 4.6

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
63	Main Agreement	Formation of GMP Proposal	Basis of Guaranteed Maximum Price	4	6.7.0	Construction Manager's Key Personnel	Reporting/ Deliverable	See 4.6	Moderate	See 4.6	See 4.6		See 4.6
64	Main Agreement	Formation of GMP Proposal	Basis of Guaranteed Maximum Price	4	6.8.0	Construction Manager's Designated Representative	Reporting/ Deliverable	See 4.6	Moderate	See 4.6	See 4.6		See 4.6
65	Main Agreement	Formation of GMP Proposal	Basis of Guaranteed Maximum Price	4	6.9.0	A construction administration (CA) services plan for the construction phase. The Construction Administration Plan will include will include, but not be limited to: (i) whether the Architect will be required to assign staff on-site; (ii) turn-around time for submittals; (iii) budget; (iv) any additional documents to assist the Construction Manager to execute the construction; and (v) such other matters as the Architect and Construction Manager consider relevant to the orderly administration of the Project.	Reporting/ Deliverable	See 4.6	Moderate	See 4.6	See 4.6		See 4.6
66	Main Agreement	Formation of GMP Proposal	Department Review of GMP Proposal	4	7.0.0	The Construction Manager shall meet with the Department to review the GMP Proposal and the written statement of its basis. In the event that the Department discovers any inconsistencies or inaccuracies in the information presented, the Department shall promptly notify the Construction Manager, who shall make appropriate adjustments to the GMP Proposal, its basis or both.	Reporting/ Deliverable	There is conflicting information contained within the GMP Proposal.	Moderate	Evidence of adjustments made to the GMP Proposal, if applicable.	Ensure any discrepancies noted by the Department were addressed and adjusted by the Construction Manager.		See 4.6
67	Main Agreement	Formation of GMP Proposal	Department Acceptance of GMP Proposal	4	8.0.0	The Department and the Construction Manager shall meet to negotiate the terms of the GMP Proposal. If the GMP Proposal is acceptable to the Department, the Department shall submit the resulting GMP Amendment for review and approval by the Council for the District of Columbia (the "Council"). The GMP shall not be effective until so approved and executed by the Parties.	Reporting/ Deliverable	The GMP is not reviewed and approved by the appropriate parties.	Moderate	Evidence of review and approval of the GMP by the council The executed GMP agreement	Verify GMP amendment was appropriately reviewed and approved.		See 4.6
68	Main Agreement	Formation of GMP Proposal	GMP Amendment	4	9.1.0	In the event an acceptable GMP Proposal is not developed and a GMP Amendment is not executed, the Agreement will be terminated. In the event the Agreement is terminated pursuant to this Section, the Department shall be free to use any of the documents and information developed through the date of termination to retain a new contractor to complete the Project.	N/A	N/A	N/A	N/A	N/A		N/A
69	Main Agreement	Formation of GMP Proposal	Assignment Upon Failure to Reach GMP	4	10.0.0	In the event that the Department and the Construction Manager are unable to agree upon a GMP, the Department shall have the right to terminate this Agreement, and if requested by the Department, the Construction Manager shall assign any trade Subcontracts to the Department upon such terms and conditions and at the time requested by the Department. In such event, the Construction Manager shall forfeit fifty percent (50%) of the Preconstruction Fee; provided, however, that if the Construction Manager has provided a GMP Proposal and value engineering strategies and/or other scope recommendations that is consistent with the Department's Project Budget and the excluded cost elements set forth in Section 9.7,the Construction Manager shall be entitled to receive one hundred percent (100%) of the Preconstruction Fee.	N/A	N/A	N/A	N/A	N/A		N/A
70	Main Agreement	Formation of GMP Proposal	Certification	4	11.0.0	As part of the GMP Proposal submitted in accordance with this Article, the Construction Manager agrees to specifically acknowledge and declare that the Contract Documents are sufficiently complete to have enabled the Construction Manager to determine the Cost of the Work therein in order to enter into the GMP Amendment and to enable the Construction Manager to agree to construct the Work outlined therein in accordance with applicable laws, statutes, building codes and regulations pertaining to the means and methods of construction to the best of Construction Manager's knowledge, and otherwise to fulfill all its obligations hereunder. The Construction Manager shall further acknowledge that it has visited the site, examined all conditions affecting the Work, is fully familiar with all of the conditions thereon and affecting the same, and, has carefully examined all drawings and specifications provided to it.	Reporting/ Deliverable	The GMP does not contain the applicable acknowledgements as defined within this provision	Moderate	See 4.6	See 4.6		See 4.6
71	Main Agreement	Formation of GMP Proposal	Preconstruction Phase Deliverables	4	12.0.0	The deliverables set forth in Exhibit C are required during the Preconstruction Phase. In the event that the Construction Manager fails to provide any deliverable so listed, and unless such failure is the result of any event of Force Majeure, the Construction Manager shall pay to the Department liquidated damages for each deliverable that is not timely submitted as set forth in Article 13 after receiving written notice from either the COTR or the Contracting Officer of failure to submit such report.	Reporting/ Deliverable	Sufficient or complete deliverables are not provided by the Construction Manager prior to beginning construction phase.	Moderate	Exhibit C	Validate that deliverables were received and reviewed/approved by management prior to issuance of NTP for construction phase.	Exhibit C	Review deliverables as defined in Exhibit C prior to issuance of NTP for construction phase
72	Main Agreement	Formation of GMP Proposal	Unsafe Materials and Hazardous Materials	4	13.1.0	The Construction Manager shall not bring, spill or release onto the site asbestos, PCBs, or any other Hazardous Material that is not customarily used in a facility of the type and similar to the Project, and shall bring to the Department's attention any specification of such Hazardous Materials in the design documents. If the Construction Manager believes that anything in the Agreement would require that it use or bring onto the site asbestos, PCBs, or any Hazardous Material that is not customarily used in a facility of the type and similar to the Project, it shall immediately inform the Department and seek direction before proceeding.	N/A	N/A	N/A	N/A	N/A		N/A
73	Main Agreement	Formation of GMP Proposal	Unsafe Materials and Hazardous Materials	4	13.2.0	The Construction Manager shall abate Hazardous Materials on the site as necessary to complete the Work contemplated by this Agreement. The Construction Manager shall comply with all laws, including, without limitation, the requirements of the EPA and all jurisdictional agencies as well as all laws relating to safety, health welfare, and protection of the environment, in removing, treating, encapsulating, passivating, and/or disposing of Hazardous Materials, including, but not limited to, removal, treatment, encapsulation, passivation, and/or disposal of the Hazardous Materials. If any notices to governmental authorities are required, the Construction Manager shall also give those notices at the appropriate times.	Other	Inadequately disposed of hazardous materials violate laws and adversely affect the surrounding environment and job site.	Moderate	Meeting/ walkthrough with DGS and/or CM to review Hazardous Materials management. Obtain project records for hazardous material management, if any, at the time of the site meeting. To include, but not limited to: notice to Owner and governmental authorities, evidence of proper removal, evidence of proper disposal.	Discuss and observe the appropriate disposal of hazardous materials at the job site. Review project records for hazardous materials management.		Periodically visit the job site to ensure hazardous materials are disposed appropriately.
74	Main Agreement	Formation of GMP Proposal	Unsafe Materials and Hazardous Materials	4	13.3.0	The Construction Manager shall be entitled to submit a Change Request in accordance with Article 17 in the event the Construction Manager encounters Hazardous Materials beyond those contemplated in the Contract Documents.	N/A	N/A	N/A	N/A	N/A		N/A
75	Main Agreement	Formation of GMP Proposal	Unsafe Materials and Hazardous Materials	4	13.4.0	The Construction Manager shall keep detailed records documenting Work done so that the Department may independently verify compliance with all laws, the number of units actually removed, treated, and/or disposed of, and the appropriate unit price(s) applicable to the Work.	Stored Materials	Management cannot verify whether hazardous materials are disposed of appropriately.	Moderate	Records documenting work done to comply with all laws, the number of units actually removed, treated, and/or disposed of, and the appropriate unit price(s) applicable to the Work.	Verify that the construction manager is appropriately documenting the removal of hazardous materials.		Periodically verify the hazardous materials records are kept up to date.
76	Main Agreement	Construction Phase	General	5	1.1.0	The Construction Phase shall not commence until the Department issues a Notice to Proceed for Construction Phase Services. The parties envision that the work on site may proceed in advance of the execution of the GMP Amendment, and the Department's approval to commence early release work to be funded from the Initial NTE shall constitute Notice to Proceed for such work. The Construction Manager shall, through Subcontractors or, with the written consent of the Department, with its own force, perform all of the Work necessary to construct the Project so that it is complete, safe, and properly built in strict accordance with the approved Construction Documents and the other requirements of this Agreement. Without limitation, the Construction Manager shall provide all of the labor, materials, tools, equipment, temporary services, and facilities necessary to complete the Project in accordance with the drawings, specifications, schedule and budget that are issued for the Project. The Construction Manager shall be responsible for paying for the building permit and associated expediting services and to pay all necessary fees for utility connections. The Work shall be carried out in a good and workmanlike, first-class manner, and in a timely fashion. All materials and equipment to be incorporated into the Project shall be new and previously unused, unless otherwise specified, and shall be free of manufacturing or other defects.	Reporting/ Deliverable	Construction begins before appropriate approvals are received	Low	1. Notice to Proceed for Construction phase 2. See pay application testing at 10.1	1. Verify NTP for the construction phase was issued before the construction phase began 2. See pay application testing at 10.1	1.15 10.1	NTP from the Department for the construction phase is required before performance may begin.
77	Main Agreement	Construction Phase	General	5	1.1.1	In constructing the Project, the Construction Manager shall ensure that unrenovated portions of existing structures, if any, including, but not limited to, the mechanical, plumbing, electrical systems and other building systems are not adversely affected. All unrenovated portions of the structures should function, at a minimum, at the level of functionality that existed immediately prior to the construction of the Project. If any unrenovated portion of the Project functions at a lower level of functionality as a result of the Construction Manager's Work, the Construction Manager shall be back-charged the costs incurred by the Department in addressing the decreased functionality.	N/A	N/A	N/A	N/A	N/A		N/A
78	Main Agreement	Construction Phase	Third Party Contracts	5	2.0.0	The Department will hire third party contractors for plan review and for testing and material inspections. The Construction Manager shall coordinate and work with the Department's project manager and third party plan reviewer during the building permit process.	N/A	N/A	N/A	N/A	N/A		N/A
79	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.1.0	It is contemplated that all or substantially all of the construction of the project will be carried out by trade Subcontractors and that those trade subcontracts will be awarded through the competitive bid process contemplated in 0. The Construction Manager shall enter into a written agreement with each subcontractor. The trade subcontractors will be under written contract with the Construction Manager. All subcontracts and agreements for the supply of equipment or materials awarded for the Project shall be fixed-price contracts unless otherwise expressly authorized by the Department, in writing. It is understood and agreed, however, that certain trade packages may be awarded on such other basis subject to the Department's consent as to the bidding procedures and economic structure with regard to those packages. The Construction Manager and its affiliates may not carry out trade work with its own forces without the Department's written permission, which permission may be withheld or conditioned by the Department in its sole and absolute judgment.	Subcontractors	The Construction Manager enters into an unauthorized subcontract	N/A	See 4.4.1	See 4.4.1		See 4.4.1
80	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.2.0	In addition to the open book reporting requirements set forth in Section 5.10, the Construction Manager shall provide to the Department a copy of all quotes or proposals submitted by potential subcontractors.	Subcontractors	See 4.4.1	High	See 4.4.1	See 4.4.1		See 4.4.1
81	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.3.0	The Construction Manager shall develop a purchasing strategy to address the expedited schedule and conditions of this Project and shall include appropriate provisions in the subcontracts to minimize the cost impact associated with such conditions. Such strategies may include, but are not limited to (i) obtaining from subcontractors unit price quotes for typical coordination items; (ii) setting aside allowances for coordination work; and (iii) such other techniques as may be employed by the Construction Manager.	Subcontractors	Unnecessary cost and delays from unplanned procurement	Low	Document/outline of procurement strategy associated with the GC's purchase of materials & subcontractors	Confirm existence of a complete procurement strategy document		Require GC to provide documentation of its procurement strategy for review along with its GMP
82	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.4.0	[Intentionally Deleted]	N/A	N/A	N/A	N/A	N/A		N/A
83	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.5.0	The Department may, in its sole discretion, reject any or all bids and proposals received for any bid package, and may require the Construction Manager to obtain new or revised bids or proposals.	N/A	N/A	N/A	N/A	N/A		N/A
84	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.6.0	The Department may, in its sole discretion, direct the Construction Manager to accept a bid from a qualified bidder other than the bidder to whom the Construction Manager recommends award of a subcontract or supply agreement. If the Department chooses this option, it shall issue a Change Order to the Construction Manager for any difference between the cost of the subcontract or supply agreement awarded and the bid price of the Subcontractor or supplier recommended by the Construction Manager, but without any adjustment to the Construction Management Fee.	N/A	N/A	N/A	N/A	N/A		N/A
85	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.7.0	The Department must approve all Subcontractors and suppliers. The Department may elect to review the form of any subcontract or agreement with a material supplier to insure that such contract incorporates the contractual provisions required by this Agreement.	Subcontractors	Unauthorized subcontractors are used	Moderate	1. Job cost report 2. List of approved subcontractors/suppliers	Select a sample of subcontractors and suppliers and verify review and approval by the department	4.4.2	Before payments are issued to the CM for work performed by a subcontractor or supplier, ensure sub/supplier has been approved.

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
86	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.0	The Construction Manager must contract for provision of all services and materials for the Project (other than Self-Performed Work which must be authorized in advance and in writing by the Department) via written subcontracts or, for contracts requiring provision of materials or equipment only, and not labor, via written supply agreements. All subcontracts and supply agreements shall include the following provisions:	Subcontractors	Subcontracts do not contain provisions the Department requires as part of the project	Moderate	Sample of subcontracts to verify existence of appropriate provisions	Verify that subcontracts contain provisions outlined in articles: 5.3.8.01 - 5.3.8.14 14.4.4.2	4.4.2 14.4.4.2	Periodically review subcontracts to ensure compliance with articles 5.3.8.01-5.3.8.14.
87	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.1	That, to the extent of the work or supply within the agreement's scope, the Subcontractor or supplier is bound to the Construction Manager for the performance of all obligations which the Construction Manager owes the Department under the Agreement	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
88	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.2	That the Subcontractor or supplier is not in privity with the Department and shall not seek compensation directly from the Department on any third-party beneficiary, quantum merit, or unjust enrichment claim, or otherwise, except as may be permitted by any applicable mechanic's lien law	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
89	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.3	That the Department is a third-party beneficiary of the subcontract or supply agreement, entitled to enforce any rights thereunder for its benefit	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
90	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.4	That the Subcontractor or supplier consents to assignment of its agreement to the Department, at the Department's sole option, if the Construction Manager is terminated for default	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
91	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.5	That the Subcontractor or supplier shall comply immediately with a written order from the Department to the Construction Manager to suspend or stop work	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
92	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.6	That the Subcontractor or supplier shall maintain records of all Work it is requested or authorized to do on a time and material or cost-plus basis, or with respect to claims that it has asserted on a time and materials or cost-plus basis, during the Project and for a period of time specified in the General Conditions and requiring the Subcontractor or supplier to make those records available for review or audit by the Department during that time	Subcontractors	Costs are not appropriately supported and expenses are overstated by the subcontractors and are paid.	High	Subcontractors pay applications	Verify a sample of subcontractor pay applications are appropriately supported		Evidence that the GC has vetted the subcontractor's accounting and timekeeping system to affirm its ability to submit accurate invoices to the GC
93	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.7	That the Subcontractor shall obtain and maintain, throughout the Project, workers compensation insurance in accordance with the laws of the District of Columbia (This provision is not applicable to supply agreements)	Insurance	Subcontractors do not have proper insurance	Moderate	Evidence of worker's compensation insurance maintained by the subcontractors	Verify that any subcontractor working on the project have obtained the proper worker's compensation		Before payments are issued to the CM for work performed by a subcontractor or supplier, ensure sub/supplier has appropriate insurance.
94	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.8	That, if the Department terminates the Agreement for convenience, the Construction Manager may similarly terminate the subcontract or supply agreement for convenience, upon seven (7) days' written notice to the Subcontractor or supplier, and that the Subcontractor or supplier shall, in such a case, be entitled only to the costs set forth in Article 6 of the Standard Contract Provisions	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
95	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.9	That the Department shall have the right to enter into a contract with the Subcontractor or supplier for the same price as its subcontract or supply agreement price less amounts already paid, if the Construction Manager files a voluntary petition in bankruptcy or has an involuntary petition in bankruptcy filed against it	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
96	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.10	That the Subcontractor or supplier shall not be entitled to payment for defective or non-conforming work, materials or equipment, and shall be obligated promptly to repair or replace non-conforming work, materials or equipment at its own cost	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
97	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.11	A provision requiring that Subcontractors and suppliers promptly pay Subcontractors and suppliers at lower tiers, imposing upon the Subcontractors and suppliers a duty to pay interest on late payments, and barring reimbursement for interest paid to lower tier Subcontractors or suppliers due to a Subcontractor's or supplier's failure to pay them in timely fashion	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
98	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.12	A provision requiring that all Subcontractors at all tiers comply with the provisions of Article 11 (Economic Inclusion Goals); provided, however, that the Construction Manager may, in its reasonable discretion impose a different LSDBE subcontracting goal on some or all of its Subcontractors; provided, further, however, that nothing in this provision shall be deemed to excuse the Construction Manager from using its best efforts to achieve the LSDBE subcontracting goal on an aggregate basis for the Project	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
99	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.13	A provision which allows the Construction Manager to withhold payment from the Subcontractor if the Subcontractor does not meet the requirements of the Subcontract	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
100	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.8.14	Lien and claim release and waiver provisions substantially identical to those in this Agreement	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
101	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.9.0	Within seven (7) calendar days of receiving any payment from the Department that includes amounts attributable to Work performed or materials or equipment supplied by a Subcontractor or supplier, the Construction Manager shall either pay the Subcontractor or supplier for its proportionate share of the amount paid to the Construction Manager for the Subcontractor's or supplier's Work or materials or equipment, or notify the Department and the Subcontractor or supplier, in writing, of the Construction Manager's intention to withhold all or part of the payment and state the reason for the withholding. All monies paid to the Construction Manager under the Agreement shall be used first to pay amounts due to Subcontractors or suppliers supplying labor or materials for the Project and only money remaining after such payments are made may be used for other items such as the Construction Management Fee. Monies paid by joint check shall be deemed to have been paid fully to the Subcontractor or supplier named as a joint payee, unless the Department agrees otherwise in writing. Any interest paid to Subcontractors or suppliers because the Construction Manager has failed to pay them in timely fashion shall not be reimbursable as part of the Cost of the Work.	Subcontractors	Subcontractors are not paid proportionate share in a timely manner	Moderate	1. AP report from District demonstrating payment to Turner 2. Copies of the checks form Turner to subcontractors	Validate that payments made to subcontractors and suppliers are made within 7 days of payment to the general contractor		Periodically verify that payments to subcontractors are made in a timely manner
102	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.10.0	The Construction Manager shall not enter into any profit sharing, rebate, or similar arrangement with any Subcontractor or supplier at any tier with respect to the Project or the Work to be carried out for the Project.	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
103	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.11.0	The Construction Manager shall not substitute or replace any Subcontractor or supplier approved by the Department without the Department's prior written consent.	Subcontractors	Construction manager replaces an approved subcontractor without the knowledge of the Department	Moderate	See 5.3.7	See 5.3.7		See 5.3.7
104	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.12.0	The Department has the right to contact Subcontractors or suppliers at all tiers, or material or equipment suppliers directly to confirm amounts due and owing to them or amounts paid to them for Work on the Project, and to ascertain from the Subcontractors or suppliers at all tiers their projections of the cost to complete their work or to supply their material or equipment, or the existence of any claims or disputes. In doing so the Department shall not issue any directions to Subcontractors or Suppliers at any tier.	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
105	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.13.0	If it comes to the Department's attention that a Subcontractor or supplier has not been paid in timely fashion (other than for disputed amounts), and if the Construction Manager fails to cure the problem within five (5) calendar days after the Department gives it written notice of the failure to pay, the Department may make payments to the Subcontractor or supplier and Construction Manager by joint check.	Subcontractors	See 5.3.8	Moderate	See 5.3.8	See 5.3.8		See 5.3.8
106	Main Agreement	Construction Phase	Subcontracting and Administration	5	3.14.0	[Intentionally Deleted]	N/A	N/A	N/A	N/A	N/A		N/A
107	Main Agreement	Construction Phase	Weekly Progress Meetings & Schedule Updates	5	4.0.0	The Construction Manager shall schedule and conduct, at a minimum, weekly progress meetings at which the Department, the Architect, the Program Manager, the Construction Manager and appropriate Subcontractors can discuss the status of the 'Work. The Construction Manager shall prepare and promptly distribute meeting minutes. In addition, the Construction Manager shall submit bi-weekly Schedule updates which shall reflect actual conditions of Project progress as of the date of the update. The update shall reflect the actual progress of construction, identify any developing delays, regardless of their cause, and reflect the Construction Manager's best projection of the actual date by which Substantial Completion and Final Completion of the Project will be achieved. Via a narrative statement (not merely a critical path method schedule), the Construction Manager shall identify the causes of any potential delay and state what in the Construction Manager's judgment, must be done to avoid or reduce that delay. The Construction Manager shall point out, in its narrative, changes that have occurred since the last update, including those related to major changes in the scope of work, activities modified since the last update, revised projections of durations, progress and completion, revisions to the schedule logic or assumptions, and other relevant changes. Any significant variance from the previous schedule or update shall also be identified in a narrative, together with the reasons for the variance and its impact on project completion. All Schedule updates shall be in a native format reasonably acceptable to the Department (e.g., Primavera). The Department may make reasonable requests during the project for changes to the format or for further explanation of information provided. Submission of updates showing that Substantial Completion or Final Completion of the Project will be achieved later than the applicable scheduled completion date shall not constitute requests for extension of time and shall not operate to change the scheduled completion date(s). The Department's receipt of, and lack of objection to, any schedule update showing Substantial Completion or Final Completion later than the dates agreed upon in the Project Schedule shall not be regarded as the Department's agreement that the Construction Manager may have an extension of time, or as a waiver of any of the Department's rights, but merely as the Construction Manager's representation that, as a matter of fact, Substantial Completion or Final Completion of the Project may not be completed by the agreed upon date in the Project Schedule. Changes to the scheduled completion dates may be made only in the circumstances and only by the methods set forth in this Agreement.	Reporting/ Deliverable	The Department is inadequately informed to effectively manage the project	High	Evidence that weekly meetings occur Evidence that bi-weekly schedule updates are being issued	Verify that weekly meetings occur and bi-weekly schedule updates are issued and contain the elements outlined in the provision		Ensure that weekly meetings are attended by all key personnel and all necessary topics are covered, and review all monthly reports.
108	Main Agreement	Construction Phase	Written Reports	5	5.0.0	The Construction Manager shall provide written reports to the Department on the progress of the entire Work at least monthly from Preconstruction Notice to Proceed until Final Completion of the Project. Such written report shall including the following elements:	Reporting/ Deliverable	Without timely or accurate CM monthly progress reports, the Owner cannot effectively manage the project.	Moderate	Monthly CM reporting package: 1. Narrative of project progress 2. Critical path schedule (Primavera format/ detailed) 3. Pay application with SOV (see 10.1) 4. Change order log, including pending change orders 5. Buy-out log 6. Disclosure of SOV shifts 7. Economic inclusion goals and results (see 5.5.3) 8. Changes made to cash flows 9. Progress photos 10. Daily jobsite logs	Confirm completeness of reports by confirming the report contains the information outlined in 5.5.1-5.5.6	5.5 - 6.0	Document review of every month report
109	Main Agreement	Construction Phase	Written Reports	5	5.1.0	Each monthly update shall contain a narrative description of the Project progress and a critical path method schedule in Primavera format, including any plans to correct defective or deficient work or for time lost due to delays.	Reporting/ Deliverable	See 5.5.0	Moderate	See 5.5.0	See 5.5.0	5.5.0	Refer to 5.5.0

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
110	Main Agreement	Construction Phase	Written Reports	5	5.2.0	The monthly update shall reflect, by Guaranteed Maximum price line item, the original line item amount, approved, pending, and projected Change Order amounts, the cost incurred to date, the projected cost to complete the Work of the line item, and any variance between the actually approved budgeted balance of the line item and the projected cost to complete. A clear distinction must be made between approved Change Orders and those merely requested or anticipated. The report shall explain all variances including "buy-outs" or final actual costs including those below their respective Guaranteed Maximum Price line item. In addition, the report must disclose any instances in which the Construction Manager has transferred amounts from one line item to another, or from the Contingency to any other line item. Neither submission of, nor the Department's failure to reject an update reflecting that the projected cost to complete the Project exceeding the Guaranteed Maximum Price will operate to increase the Guaranteed Maximum Price or waive the Department's right to enforce the Guaranteed Maximum Price. If the report reflects budget overruns, it must also include a recovery plan.	Reporting/ Deliverable	See 5.5.0	Moderate	See 5.5.0	See 5.5.0	5.5.0	See 5.5.0
111	Main Agreement	Construction Phase	Written Reports	5	5.3.0	The monthly report shall include a detailed summary of the Construction Manager's efforts and results with respect to the economic inclusion goals set forth in this Agreement. Such report shall be in a format acceptable to the Department and shall include, at a minimum: (i) the Construction Manager's overall performance with respect to the goals; (ii) a listing of subcontracts and agreements with material suppliers during the month and the percentage of those subcontracts and agreements with material suppliers awarded to LSDBEs; (iii) a listing of subcontracts during the month and the estimated percentage of the labor hours to be worked by District of Columbia residents pursuant to those subcontracts; and (iv) a description of the major subcontracting and supply opportunities that will be solicited during the next three (3) months and the actions being taken to meet the subcontracting goals.	Reporting/ Deliverable	See 5.5.0	Low	See 5.5.0, item 7 (i) CM's overall performance with respect to the goals; (ii) Listing of subcontracts and agreements with material suppliers during the month and the percentage of those subcontracts and agreements with material suppliers awarded to LSDBEs; (iii) Listing of subcontracts during the month and the estimated percentage of the labor hours to be worked by District of Columbia residents pursuant to those subcontracts; and (iv) Description of the major subcontracting and supply opportunities that will be solicited during the next three (3) months and the actions being taken to meet the subcontracting goals.	See 5.5.0 item 7 Verify CM goal and progress reporting meets XXXX provision	5.5.0	See 5.5.0
112	Main Agreement	Construction Phase	Written Reports	5	5.4.0	If there have been any changes to the anticipated cash flow for the Project, such changes shall be disclosed and explained in the monthly report. If there are no such changes, the report shall so state.	Reporting/ Deliverable	See 5.5.0	Moderate	See 5.5.0	See 5.5.0	5.5.0	See 5.5.0
113	Main Agreement	Construction Phase	Written Reports	5	5.5.0	The monthly report shall include a detailed summary of the steps that are being employed to ensure quality construction and workmanship. Each report shall specifically address issues that were raised by the Department and/or its Program Manager during the prior month and outline the steps that are being taken to address such issues.	Reporting/ Deliverable	See 5.5.0	Moderate	See 5.5.0	See 5.5.0	5.5.0	See 5.5.0
114	Main Agreement	Construction Phase	Written Reports	5	5.6.0	The monthly report shall include updated progress photos that shall detail changes in the Work during the month. The Construction Manager shall also maintain a daily log containing a record of weather, Subcontractors working on the site, number of workers, major equipment on the site, Work accomplished, problems encountered and other similar relevant data as the Department may reasonably require. The log shall be available to the Department, the Architect and the Program Manager, and on a monthly basis a copy of the log shall be submitted to the Department.	Reporting/ Deliverable	See 5.5.0	Moderate	See 5.5.0	See 5.5.0	5.5.0	See 5.5.0
115	Main Agreement	Construction Phase	Cost Control System	5	6.0.0	The Construction Manager shall use a system of cost control for the Work in a format consistent with the GMP schedule of values and approved by the Department, which shall include, without limitation, regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. Construction Manager shall identify variances between actual and estimated costs and report the variances to the Department, the Architect and the Program Manager at regular intervals.	Reporting/ Deliverable	Potential variances from estimates are not identified and reported to the Department in a timely manner.	Moderate	See 5.5.0	See 5.5.0	5.5.0	See 5.5.0
116	Main Agreement	Construction Phase	Key Personnel	5	7.1.0	To carry out its duties, the Construction Manager shall provide at least the key personnel identified in Exhibit F to this Agreement ("Key Personnel"), who shall carry out the functions identified in Exhibit F. Among other things, the Key Personnel shall include the project managers that will be responsible for managing the Mechanical, Electrical and Plumbing ("MEP") Work and the interior work. It is contemplated that these project managers will work from the design stage, purchasing and throughout the bulk of the field work. The Construction Manager's obligation to provide adequate staffing is not limited to providing the Key Personnel, but is determined by the needs of the Project. The Construction Manager shall not replace any of the Key Personnel without the Department's prior written approval, which shall not be unreasonably withheld. If any of the Key Personnel become unavailable to perform services in connection with the Agreement due to death, disability or separation from the employment of the Construction Manager or any affiliate of the Construction Manager, then the Construction Manager shall promptly appoint a replacement acceptable to the Department. The Department shall be entitled to complete information on each such replacement, including a current resume of his or her qualifications and experience.	Labor	Unauthorized personnel are charged to the job for work performed	High	See 9.2.1	See 9.2.1	9.1	See 9.2.1
117	Main Agreement	Construction Phase	Key Personnel	5	7.2.0	Certain members of the Construction Manager's Key Personnel shall be subject to liquidated damages for their removal or reassignment by the Construction Manager. Those members of the Construction Manager's Key Personnel subject to the liquidated damages provisions in Section 13.2 shall be identified in Exhibit F as subject to the liquidated damages provisions. In the event there is no delineation in Exhibit F of those members of the Construction Manager's Key Personnel subject to the liquidated damages provisions of this Agreement, then all of the Key Personnel shall be subject to the liquidated damages provisions of this Agreement.	Labor	Key members of the construction manager's team are removed from the project, which may adversely affect the completion of the project.	Moderate	See 9.2.1	See 9.2.1	9.2.1, 13.2	See 9.2.1
118	Main Agreement	Construction Phase	Key Personnel	5	7.3.0	In addition, the Department shall have the right, to be exercised in its sole discretion, to remove, replace or to reduce the scope of services of the Construction Manager in the event that a member of the Key Personnel has been removed or replaced by the Construction Manager without the prior written consent of the Department. In the event the Department exercises the right to remove, replace or to reduce the scope of services of the Construction Manager, the Department shall have the right to enforce the terms of this Agreement and to keep-in-place those members of the Construction Manager's team not removed or replaced and the remaining members shall complete the services required under this Agreement in conjunction with the new members of the Construction Manager's team approved by the Department.	N/A	N/A	N/A	N/A	N/A		N/A
119	Main Agreement	Construction Phase	Qualified Personnel/ Cooperation	5	8.0.0	The Construction Manager shall employ on the Project only those employees and Subcontractors who will work together in harmony and who will cooperate with one another on the Project. The Construction Manager shall enforce strict discipline, good order and harmony among its employees and its Subcontractors and shall remove from the site any person who is unfit for the work or fails to conduct herself or himself in a proper and cooperative manner. If the Department requests removal of any person as unfit or as having behaved inappropriately, the Construction Manager shall promptly comply.	N/A	N/A	N/A	N/A	N/A		N/A
120	Main Agreement	Construction Phase	Warranty	5	9.0.0	The Construction Manager warrants to the Department that materials and equipment furnished under the Contract Documents will be of good quality and new unless otherwise required or permitted by the Contract Documents, that for the one (1) year period following the Substantial Completion Date the work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. The Construction Manager's warranty excludes remedies for damage or defect caused by abuse, modifications not executed by the Construction Manager, improper or insufficient maintenance, improper operation, or normal wear and tear from normal usage. The Construction Manager shall use commercially reasonable efforts to schedule a joint inspection of the Project during the eleventh month after Substantial Completion is achieved. During such inspection, the Construction Manager and a representative of the Department shall walk the Project to identify any necessary warranty work.	N/A	N/A	N/A	N/A	N/A		N/A
121	Main Agreement	Construction Phase	Open Book Reporting	5	10.0.0	The Construction Manager shall maintain an open book reporting system with the Department, allowing the Department or its consultants access to the Construction Manager's Subcontractors and material suppliers, invoices, purchase orders, Change Order estimates, records for Self-Performed Work, and other relevant documentation and sources of information concerning the Work or costs. The Department shall not use its access to the Subcontractors to give instructions or directions to them. All instructions or directions shall be given only to the Construction Manager.	N/A	N/A	N/A	N/A	N/A		N/A
122	Main Agreement	Construction Phase	Claims for Additional Time	5	11.1.0	Time is of the essence of this Agreement.	N/A	N/A	N/A	N/A	N/A		N/A
123	Main Agreement	Construction Phase	Claims for Additional Time	5	11.2.0	The Construction Manager will perform the Work so that it shall achieve Substantial Completion by the Substantial Completion Date. Unless the failure to achieve Substantial Completion by the Substantial Completion Date is a result of an Excusable Delay, as defined in Section 5.1 1.3, the delay shall be deemed Non-Excusable and the Construction Manager shall not be entitled to an extension of time. Without limiting the generality of the foregoing, delays for the following reasons shall be regarded as Non-Excusable and shall not entitle the Construction Manager to an extension of time:	Change Order	A change order for time extension is issued for a Non-Excusable reason	Moderate	See 17.2	See 17.2	17.2	See 17.2
124	Main Agreement	Construction Phase	Claims for Additional Time	5	11.2.1	Delays due to job site labor disputes, work stoppages or suspensions of work	Change Order	A change order for time extension is issued for a Non-Excusable reason	Moderate	See 17.2	See 17.2	17.2	See 17.2
125	Main Agreement	Construction Phase	Claims for Additional Time	5	11.2.2	Delays due to adverse weather, unless the Construction Manager establishes that the adverse weather was of a nature and duration in excess of averages established by data from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration for the Project locale for the ten (10) years preceding the effective date of the Agreement. For purposes of this clause, weather shall only be deemed "adverse" if the weather in question was more severe than that encountered at the project site over the last ten (10) years for the month in question. Such determinations shall be made based on the number of rain/snow days or the cumulative precipitation total for the month in question. Notwithstanding the foregoing, named storms shall conclusively be deemed "adverse".	Change Order	A change order is issued for a disallowed reason.	Moderate	See 17.2	See 17.2	17.2	See 17.2
126	Main Agreement	Construction Phase	Claims for Additional Time	5	11.2.3	Delays due to the failure of the Construction Manager or Subcontractors or material suppliers at any tier to perform in timely or proper fashion, without regard to concepts of negligence or fault	Change Order	A change order is issued for a disallowed reason.	Moderate	See 17.2	See 17.2	17.2	See 17.2
127	Main Agreement	Construction Phase	Claims for Additional Time	5	11.2.4	Delays due to Site Conditions whether known or unknown as of the effective date of the Agreement, foreseeable or unforeseeable at that time, naturally occurring or man-made; provided, however, that delays due to differing Site Conditions as permitted by Article 4, Section A of the Standard Contract Provisions or Hazardous Materials Remediation shall be deemed an Excusable Delay.	Change Order	A change order is issued for a disallowed reason.	Moderate	See 17.2	See 17.2	17.2	See 17.2
128	Main Agreement	Construction Phase	Claims for Additional Time	5	11.3.0	The Construction Manager shall be entitled to an adjustment in the Substantial Completion Date due to an Excusable Delay. The term "Excusable Delay" shall mean:	Change Order	A change order for time extension is issued for a Non-Excusable reason	Moderate	See 17.2	See 17.2	17.2	See 17.2

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
129	Main Agreement	Construction Phase	Claims for Additional Time	5	11.3.1	Delays due to adverse weather other than those that are classified as a Non-Excusable delay in accordance with Section 5.11.2.2 of this Agreement	Change Order	A change order for time extension is issued for a Non-Excusable reason	Moderate	See 17.2	See 17.2	17.2	See 17.2
130	Main Agreement	Construction Phase	Claims for Additional Time	5	11.3.2	Delays due to acts of God, war, unavoidable casualties, civil unrest, and other similar causes of delay that are beyond the control of the Construction Manager; provided, however, that in no event shall a Non-Excusable Delay or the action or inaction of the Construction Manager, or any of its employees, agents, Subcontractors or material suppliers be deemed an Excusable Delay	Change Order	A change order for time extension is issued for a Non-Excusable reason	Moderate	See 17.2	See 17.2	17.2	See 17.2
131	Main Agreement	Construction Phase	Claims for Additional Time	5	11.3.3	Delays caused by Differing Site Conditions as permitted by Article 4, Section A of the Standard Contract Provisions or Hazardous Materials Remediation as contemplated in Section 5.II.2.4 of this Agreement	Change Order	A change order for time extension is issued for a Non-Excusable reason	Moderate	See 17.2	See 17.2	17.2	See 17.2
132	Main Agreement	Construction Phase	Claims for Additional Time	5	11.3.4	Delays due to suspensions of work	Change Order	A change order for time extension is issued for a Non-Excusable reason	Moderate	See 17.2	See 17.2	17.2	See 17.2
133	Main Agreement	Construction Phase	Claims for Additional Time	5	11.3.5	Delays caused by the Department or, third parties such as governmental authorities and utility companies, or separate contractors of the Department to the extent such delays are not concurrent with delays caused by the Construction Manager or any of its employees, agents, subcontractors or material suppliers; or In addition to the forgoing, a delay shall be deemed to be an Excusable Delay only to the extent that such delay (i) warrants an extension in the Substantial or Final Completion Date; (ii) has not been caused by the Construction Manager or any of its employees, agents, Subcontractors or material suppliers; (iii) is on Project's critical path; and (iv) is in addition to any time contingency periods set forth in the critical path	Change Order	A change order for time extension is issued for a Non-Excusable reason	Moderate	See 17.2	See 17.2	17.2	See 17.2
134	Main Agreement	Construction Phase	Claims for Additional Time	5	11.4.0	If the Construction Manager wishes to make a claim for an adjustment in time allotted per the Project Schedule, written notice as provided in Section 17.4 shall be given. The Construction Manager's claim shall include an estimate of the cost and of the probable effect of delay on the progress of the Work. In the case of continuing delay, only one claim is necessary.	Change Order	A change order is issued for a disallowed reason.	Moderate	See 17.2	See 17.2	17.2	See 17.2
135	Main Agreement	Construction Phase	Claims for Additional Time	5	11.5.0	In no event shall the Construction Manager be entitled to an increase in time for Non-Excusable Delay	Change Order	A change order is issued for a disallowed reason.	Moderate	See 17.2	See 17.2	17.2	See 17.2
136	Main Agreement	Construction Phase	Claims for Additional Time	5	11.6.0	In no event shall the Construction Manager be entitled to an increase in the GMP, the Preconstruction Fee, or the Construction Management Fee as a result of Non-Excusable Delay. In the event of an Excusable Delay under Section 5.II.3.2, the Construction Manager shall be entitled to receive its actual Costs of the Work, including all direct and indirect costs, bonds and insurances resulting from such extended duration. It is understood that the Construction Manager shall not be entitled to any profit or home office overhead, including, but not limited to, an increase in the Construction Management Fee, on any amounts to which the Construction Manager may be entitled pursuant to the preceding sentence. In the event of an Excusable Delay other than under Section 5.II.3.2, the Construction Manager shall be entitled to receive its actual Costs of the Work, including all direct and indirect costs, bonds and insurances resulting from such extended duration as well as its Construction Management Fee. For the avoidance of doubt, the parties acknowledge that adjustments to the schedule in an event of Excusable Delay shall be governed by Section 5.1.1.2	Change Order	CM general conditions are increased by a non-excusable delay.	Moderate	See 17.2	See 17.2	17.2	See 17.2
137	Main Agreement	Construction Phase	Site Safety and Clean-Up	5	12.1.1	The Construction Manager will be required to provide a safe and efficient site, with controlled access. As part of this obligation, the Construction Manager shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Project, and shall comply with the requirements set forth in Article 16, Section F of the Standard Contract Provisions.	Reporting/ Deliverable	A lack of a safe environment results in an injury on the job site.	Moderate	Safety plan and evidence of Department approval	Verify that site is in compliance with safety plan		Periodically visit the job site to ensure compliance with the safety plan
138	Main Agreement	Construction Phase	Site Safety and Clean-Up	5	12.1.2	Prior to the start of construction activities, the Construction Manager shall prepare a safety plan for the construction phase conforming to OSHA 29 CFR 1926 (such plan, the "Safety Plan"). This Safety Plan developed by the Construction Manager shall describe the proposed separation and the specific nature of the safety measures to be taken including fences and barriers that will be used as well as the site security details. The Safety Plan will be submitted to the Department and Client Agency for their review and approval prior to the commencement of construction. Once the Safety Plan has been approved, the Construction Manager shall comply with it at all times during construction. The Construction Manager shall be required to revise the Safety Plan as may be requested by the Department or Client Agency. The cost of revising and complying with the plan shall not entitle the Construction Manager to an increase in the GMP. In the event the Construction Manager fails to provide the Safety Plan, the Construction Manager will not be permitted to commence the Construction Phase until the Safety Plan is submitted and in no event shall any resulting delay constitute an Excusable Delay. Additionally, the Construction Manager shall comply with the requirements of Article 27, Section A of the Standard Contract Provisions.	Reporting/ Deliverable	See 5.12.1.1	Moderate	See 5.12.1.1	See 5.12.1.1		See 5.12.1.1
139	Main Agreement	Construction Phase	Site Safety and Clean-Up	5	12.2.0	As part of its responsibility for Project safety, the Construction Manager shall install such fences and barriers as may be necessary to separate the construction areas of the site from those areas that are then being used by Client Agency for educational purposes. The Construction Manager shall describe in the Safety Plan the proposed separation and the specific nature of the fences and barriers that will be used.	Reporting/ Deliverable	An unauthorized person gains access to the jobsite	Moderate	See 5.12.1.1	See 5.12.1.1		See 5.12.1.1
140	Main Agreement	Construction Phase	Site Safety and Clean-Up	5	12.3.0	The Construction Manager shall be responsible for site security and shall be required to provide such watchmen as are necessary to protect the site from unwanted intrusion.	Reporting/ Deliverable	An unauthorized person gains access to the jobsite	Moderate	See 5.12.1.1	See 5.12.1.1		See 5.12.1.1
141	Main Agreement	Construction Phase	Site Safety and Clean-Up	5	12.4.0	The right of the Department and Client Agency to comment on the Safety Plan and the nature and location of the required fences and barriers shall in no way absolve the Construction Manager from the obligation to maintain a safe site.	N/A	N/A	N/A	N/A	N/A		N/A
142	Main Agreement	Construction Phase	Workhours, Site Office, and Coordination with Client Agency and Community	5	13.1.0	The Construction Manager shall comply with the Noise Ordinance and neither it nor its subcontractors shall undertake work on the Project site other than at the times and sound level permitted by the Noise Ordinance.	Reporting/ Deliverable	Failure to comply with noise ordinance may cause noncompliance with funding agreements, fines, and/or work stoppage.	Moderate	Plan for compliance with noise ordinance	Review measures taken by management to monitor compliance with the noise ordinance	Exhibit J 16.H.0	Periodically visit the job site to ensure compliance with the noise ordinance
143	Main Agreement	Construction Phase	Workhours, Site Office, and Coordination with Client Agency and Community	5	13.2.0	Throughout the Project, the Construction Manager shall provide and maintain a fully-equipped construction office for the Project site.	N/A	N/A	N/A	N/A	N/A		N/A
144	Main Agreement	Construction Phase	Workhours, Site Office, and Coordination with Client Agency and Community	5	13.3.0	The Construction Manager shall organize its work in such a manner so as to minimize the impact of its operations on the surrounding community. To the extent that the number of workers on the site is likely to have an adverse impact on neighborhood parking, the Construction Manager shall develop a parking plan for those individuals working on the site that is reasonably acceptable to the Department.	Reporting/ Deliverable	See 5.13.5	Low	See 5.13.5	See 5.13.5		See 5.13.5
145	Main Agreement	Construction Phase	Workhours, Site Office, and Coordination with Client Agency and Community	5	13.4.0	The Construction Manager shall provide wheel washing stations on site so as to prevent the accumulation of dirt and other refuse on the streets surrounding the Project site.	Reporting/ Deliverable	Failure to comply with wheel washing requirements may cause noncompliance with funding agreements, fines, and/or work stoppage.	Moderate	Plan for compliance with noise ordinance	1. Review measures taken by management to monitor compliance with the wheel washing provisions 2. Verify the site has an operational wheel washing station, and that excessive dirt/debris is not present on surrounding streets		Periodically visit the job site to ensure compliance with the wheel washing provisions
146	Main Agreement	Construction Phase	Workhours, Site Office, and Coordination with Client Agency and Community	5	13.5.0	The Construction Manager shall keep the Department informed of the construction activities and their potential impact on the community and shall develop a community outreach plan (the "Outreach Plan"). The Construction Manager shall submit the Outreach Plan to the Department prior to its implementation which shall be subject to the Department's review and approval.	Reporting/ Deliverable	Construction activities adversely effect the surrounding community	Low	Community outreach plan	Verify that a community outreach program was submitted		Document review of the community outreach program
147	Main Agreement	Construction Phase	Workhours, Site Office, and Coordination with Client Agency and Community	5	13.6.0	Throughout the Work, the construction office shall be managed by personnel competent to oversee the Work at all times while construction is underway. Such personnel shall maintain full-time, on-site construction supervision and provide daily inspections, quality control, monitoring, coordinating various trades, record drawings, and daily work log.	Reporting/ Deliverable	Job site is not managed by qualified, competent personnel	Low	Daily log, see section 5.50	Daily log, see section 5.50	5.5	Periodic site visits to ensure that the site is actively managed by authorized individual
148	Main Agreement	Construction Phase	Close Out & FF&E	5	14.1.0	A detailed list of FF&E requirements will be developed during the preconstruction phase as contemplated in Exhibit N.	N/A	N/A	N/A	N/A	N/A		N/A
149	Main Agreement	Construction Phase	Close Out & FF&E	5	14.2.0	Promptly after the Work reaches Substantial Completion, the Construction Manager shall develop a preliminary punch list. Once the punch list is prepared, the Construction Manager shall inspect the work along with representatives from the Department. The punch list shall be revised to reflect additional work items that are discovered during such inspection. The Construction Manager shall correct all punch list items no later than sixty (60) days after Substantial Completion is achieved.	Closeout	Final payment is released before punch list items are cleared	Low	See 1.10	See 1.10	1.1	See 1.10
150	Main Agreement	Construction Phase	Close Out & FF&E	5	14.3.0	Subsequent to Substantial Completion and no later than fifteen (15) days following Substantial Completion, the Construction Manager shall prepare and submit the following documentation: (i) a complete set of product manuals (O&M), training videos, warranties, etc.; (ii) attic stock; (iii) an equipment schedule; (iv) a proposed schedule of maintenance for the renovated building; (v) environmental, health and safety documents for the renovated building; and (vi) all applicable inspection certificates/permits (boiler, elevator, emergency evacuation plans, health inspection, etc.) for the renovated building. No later than thirty (30) days following Substantial Completion, the Construction Manager shall prepare and submit: (x) a complete set of its Project files; and (y) a set of record drawings.	Closeout	Final payment is released before Owner is provided the required documents/ materials at project closeout	Low	1. Verification that O&M Manuals and training videos were provided to Owner (see 1.1) 2. Verification attic stock was turned over to Owner 3. Equipment schedule 4. Proposed preventative maintenance schedule 5. Environmental, health, safety documents for building 6. Inspection certificates/ permits (boiler, elevator, emergency evacuation plans, health inspection, etc.) 7. A complete set of its Project files. 8. As built record drawings	Project step may not be complete during the course of our testwork. Verify owner received the documentation/ materials identified	1.1, 5.14.3, Exhibit N, 10.2	Prepare a closeout checklist to confirm completeness of records or materials required to be provided by the CM or Subs
151	Main Agreement	Construction Phase	Close Out & FF&E	5	14.4.0	The Construction Manager and its mechanical subcontractor shall provide support to DCPS and the Department during system start-up and in initial operation for the first heating and cooling season after Substantial Completion is achieved	Closeout	Final payment is released before Owner is provided the required documents/ materials at project closeout	Low	1. Verification that Owner received mechanical commissioning reports from subcontractor	Project step may not be complete during the course of our testwork. Verify owner received the documentation/ materials identified	1.1, 5.14.3, Exhibit N, 10.2	See 5.14.3

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
152	Main Agreement	Construction Phase	Close Out & FF&E	5	14.5.0	The Construction Manager shall provide training to Client Agency staff on all of the building systems. The Construction Manager shall be required to schedule such training sessions and shall use commercially reasonable efforts to ensure all such training occurs prior to Final Completion.	Closeout	Final payment is released before Owner is provided the required documents/ materials at project closeout	Low	1. Schedule of system training by CM/ Subs for Owner	Project step may not be complete during the course of our testwork. Verify training was scheduled for Owner by CM/ Subs	1.1, 5.14.3, Exhibit N, 10.2	See 5.14.3
153	Main Agreement	Construction Phase	Close Out & FF&E	5	14.6.0	The Construction Manager shall assist Client Agency in relocating FF&E and other items as necessary within the renovated building, as well as for cleaning and other move-in services as directed by the Department. The GMP shall include an allowance and scope of work for these activities. This allowance is in addition to cleaning services that would otherwise be required by the Construction Manager, including, but not limited to, the obligation to deliver a broom clean building at the end of construction.	Allowances	Scope is not competitively bid and/or savings is not returned to the Owner	Moderate	1. Evidence of subcontractor bidding process for final clean, FF&E moving, and related scopes of work 2. Allowance tracker	Project step may not be complete during the course of our testwork.		Owner monitoring of subcontractor awards and allowance usage
154	Main Agreement	Construction Phase	Salvaged and Stored Items	5	15.0.0	The Construction Manager shall be responsible for salvaging and storing all items as identified by the Department in accordance with all applicable District laws and regulations, after notifying the Department and receiving the Department's permission to proceed. Any and all items to be salvaged shall be identified by the Department during the Preconstruction Phase.	N/A	N/A	N/A	N/A	N/A		N/A
155	Main Agreement	Construction Phase	Sediment and Erosion Control	5	16.0.0	The Construction Manager shall be responsible for installing sediment and erosion control measures, inclusive of, but not limited to: silt fencing, inlet protection, stabilized construction entrances, and other control measures.	N/A	N/A	N/A	N/A	N/A		N/A
156	Main Agreement	Construction Phase	Quality Control	5	17.1.0	The Construction Manager shall be responsible for all activities necessary to manage, control, and document work to ensure compliance with Contract Documents. The Construction Manager's responsibility includes ensuring adequate quality control services are provided by the Construction Manager's employees and its subcontractors at all levels. The work activities shall include safety, submittal management, document reviews, reporting, and all other functions related to quality construction.	N/A	N/A	N/A	N/A	N/A		N/A
157	Main Agreement	Construction Phase	Quality Control	5	17.2.0	The Construction Manager shall develop a quality control plan for the Project (the "Quality Control Plan"). A draft of the Quality Control plan shall be submitted to the Department with the GMP Proposal and shall be subject to the Department's review and approval. The Quality Control Plan shall be tailored to the specific products/type of construction activities contemplated by the GMP Basis Document, and in general, shall include a table of contents, quality control team organization, duties/responsibilities of quality control personnel, submittal procedures, inspection procedures, efficiency correction procedures, documentation process, and a list of any other specific actions or procedures that will be required for key elements of the Work.	Reporting/ Deliverable	Construction team procures materials and performs that do not meet Department's quality standards	Moderate	Quality Control Plan; Notification of any "Quality Control Event" requiring a Corrective Action Plan	1. Document Management's actions related to monitoring for compliance 2. Verify elements of the quality control plan to ensure compliance		Document review of the quality control plan
158	Main Agreement	Construction Phase	Quality Control	5	17.3.0	During the Construction Phase, the Construction Manager shall perform regular quality control inspections and create reports based on such inspections pursuant to the Quality Control Plan. The quality control reports shall be provided to the Department electronically on a monthly basis. The Construction Manager shall incorporate a quality control section in the progress meetings to discuss outstanding deficiencies, testing/inspections, and upcoming Work. The monthly report shall include a detailed summary of the steps that are being employed to provide quality construction and workmanship. The monthly report should specifically address issues raised during the month and outline the steps that are being used to address such issues.	Reporting/ Deliverable	Construction team procures materials and performs that do not meet Department's quality standards	Moderate	See 5.17.2 and 5.5.5	See 5.17.2 and 5.5.5		See 5.17.2 and 5.5.5
159	Main Agreement	Construction Phase	Acceleration	5	18.0.0	Subject to the terms of this Section, the Department shall have the right to direct the Construction Manager to accelerate the Work if, in the reasonable judgment of Department: (i) the Construction Manager fails to supply a sufficiency of workers or to deliver the materials or equipment with such promptness as to prevent the delay in the progress of the Work; or (ii) the progress of the Work otherwise materially falls behind the projections contained in the then currently approved Project Schedule. In the event that the Department or its Program Manager determine that either of the events specified in the preceding sentence have occurred, the Department shall provide the Construction Manager with written notice of such event and the Construction Manager shall be required to provide the Department with a schedule recovery plan ("Recovery Plan") that is reasonably designed to address the concerns raised in such notice within three (3) days after receipt of such notice. If the Department and the Construction Manager are unable to agree on the terms of the Recovery Plan within five (5) days after the issuance of the notice (i.e. within forty eight (48) hours after the receipt of the proposed Recovery Plan), the Department shall have the right to direct such acceleration as the Department, in its reasonable judgment, deems necessary. Provided Department complies with the notice provisions of this Section, the cost of any acceleration directed under this Section shall not justify an adjustment to the GMP on the Substantial Completion Date. Given the nature of the Project and the fact that there is a fixed date upon which the Client Agency plans to occupy the building, the Construction Manager hereby: (i) acknowledges that this provision is a material inducement upon which the Department has relied in entering into this Agreement; and (ii) represents and warrants that it has included sufficient funding in the GMP in order to comply with the requirements of this Section.	Reporting/ Deliverable	(i) the Construction Manager fails to supply a sufficiency of workers or to deliver the materials or equipment with such promptness as to prevent the delay in the progress of the Work; or (ii) the progress of the Work otherwise materially falls behind the projections contained in the then currently approved Project Schedule.	Moderate	Change orders	See 17.2	17.2	Overall monitoring of job against the schedule
160	Main Agreement	Construction Phase	Corrective Action Plan	5	19.0.0	Subject to the terms of this Section, the Department shall have the right direct the Construction Manager to revise the provisions of the Quality Control Plan if, in the reasonable judgment of the Department, the craftsmanship of the Work being installed fails to comply with generally applicable industry standards, requirements set forth in the Specifications that are reasonably related to the quality of craftsmanship quality, or any provisions set forth in this Agreement (each a "Quality Control Event"). In the event that the Department or its Program Manager determine that a Quality Control Event has occurred, the Department shall provide the Construction Manager with written notice of the occurrence of such Quality Control Event and the Construction Manager shall be required to provide the Department with a corrective action plan that is reasonably designed to address the concerns raised in such notice within three (3) days after receipt of such notice (each instance, a "Corrective Action Plan"). If the Department and the Construction Manager are unable to agree on the terms of the Corrective Action Plan within five (5) days after the issuance of the notice (i.e. within forty eight (48) hours after the receipt of the proposed corrective action plan), the Department shall have the right to direct such corrective action measures as the Department, in its reasonable judgment, deems necessary. Such directive may include adjustments to the procedural provisions set forth in the Quality Control Plan and/or may impose additional requirements on the manner in which Work is being performed. Provided the Department complies with the notice provisions of this Section, the cost of any such corrective action directed under this Section shall not justify an adjustment to the GMP on the Substantial Completion Date.	Reporting/ Deliverable	Quality Control Plan is not adequate to ensure GC meets Department's quality standards	Moderate	See 5.17.2	See 5.17.2		See 5.17.2
161	Main Agreement	Construction Phase	Prolog	5	20.0.0	The Construction Manager shall utilize the Department's Prolog system to submit any and all documentation required to be provided by the Construction Manager for the Project, including, but not limited to: (i) requests for information; (ii) submittals; (iii) meeting minutes; (iv) invoices/applications for payment (full package including all forms required by DGS); (v) certified payrolls (in addition to upload via LCP Tracker); (vi) drawings and specifications; (vii) punch list; and (viii) other documents as may be designated by the Department. The Construction Manager also shall require all subcontractors and subconsultants to utilize Prolog for the Project.	General Conditions	Project records are not maintained in a central system	Moderate	TBD - following walkthrough	Verify that Turner is using the Prolog system - Uploading documents correctly - uploads in a timely manner - completeness of reporting Conduct analysis of user logins and usage by Construction Management team		Periodically verify prolog is being used properly
162	Main Agreement	Construction Phase	Conformance with Laws	5	21.0.0	It shall be the responsibility of the Construction Manager to perform under the Agreement in conformance with the Department's Procurement Regulations and all statutes, laws, codes, ordinances, regulations, rules, requirements, orders, and policies of governmental bodies, including, without limitation, the U.S. Government and the District of Columbia government; and it is the sole responsibility of the Construction Manager to determine the Procurement Regulations, statutes, laws, codes, ordinances, regulations, rules, requirements and orders that apply and their effect on the Construction Manager's obligations thereunder. Notwithstanding the foregoing, the Construction Manager assumes no obligation or responsibility for the conformance of the design prepared by the Architect with the foregoing requirements. Given the requirements for the Project, the Department may, at its sole discretion, (i) apply for variance to the requirement of adhering to the Green Building Act on the Project and (ii) consider deferring the scope of work associated with storm water management to a later phase of the Project.	N/A	N/A	N/A	N/A	N/A		N/A
163	Main Agreement	Construction Phase	Construction Phase Deliverables	5	22.0.0	The Construction Manager shall provide the deliverables set forth in Exhibit C required during the Construction Phase.	N/A	N/A	N/A	N/A	N/A		N/A
164	Main Agreement	Construction Phase	Close-Out Deliverables	5	23.0.0	The Construction Manager shall provide the deliverables set forth in Exhibit N during the Project's Close-Out and prior to Final Payment, as set forth in Section 10.12.	N/A	N/A	N/A	See Exhibit N	N/A	10.12, 1.1, 5.14.3	See 5.14.3
165	Main Agreement	Designated Representatives	Department's Designated Representative	6	1.0.0	The Department designates the individual(s) identified in Exhibit I as its representative with express authority to bind the Department with respect to all matters requiring the Department's approval or authorization. Subject to the limitations on their authority specified in Exhibit I, these representative(s) shall have the exclusive authority to make decisions on behalf of the Department concerning estimates and schedules, construction budgets, changes in the Work, and execution of Change Orders or Change Directives, and shall render such decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or performance of the work of the Construction Manager. In order for the Department to effectively manage the Project and assure that the Construction Manager does not receive conflicting instructions regarding the Work, the Construction Manager shall promptly notify the Department's representative upon receiving any instructions or other communication in connection with the Construction Manager's Work from any employee of the Department or other purported agent of the Department other than the Department's designated representative.	Change Order	Unauthorized personnel are approving change orders	Moderate	See 17.2	See 17.2		Review all change orders for proper approval
166	Main Agreement	Designated Representatives	Construction Manager's Designated Representative	6	2.0.0	The Construction Manager designates the individual(s) identified in Exhibit H as its representative with express authority to bind the Construction Manager with respect to all matters requiring the Construction Manager's approval or authorization. In addition, the Department retains the right to approve candidates to serve as on-site personnel in accordance with each candidate's experience with similar projects and local marketplace conditions. Once approved, individuals cannot be changed without the Department's prior approval. All services provided by the Construction Manager shall be performed in accordance with the standard of care defined in Section 2.3.	Change Order	Unauthorized personnel are approving change orders	Moderate	See 17.2	See 17.2	17.2	Review all change orders for proper approval

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
167	Main Agreement	Compensation and Payments for Preconstruction Phase Services	Compensation	7	1.1.0	The Department shall compensate and make payments to the Construction Manager for Preconstruction Services in accordance with this Article '7 - and Article 10 - For Preconstruction Services, the Construction Manager's compensation shall be as set forth in the Project Information Section of this Agreement (the "Preconstruction Fee"). The Preconstruction Fee shall be the Construction Manager's sole compensation for Preconstruction Phase Services. The Preconstruction Fee shall include, but not be limited to, amounts necessary to compensate the Construction Manager for: (a) Profit (b) Home Office Overhead (c) Cost of preconstruction staff (d) Fringe Benefits associated with staff costs (e) Payroll taxes associated with staff costs (f) Staff costs associated with obtaining permits and approvals during the Preconstruction Phase (g) Travel, Living and Relocation expenses (h) Job vehicles (i) Office equipment including but not limited to: 1. Computer hardware and software 2. Fax machines 3. Copying machines (j) Office supplies (k) Telephone	General Conditions	Payments are made for unapproved expenses	High	1. Pay application, general condition support (see 9.1), including breakdown for CM-generated invoices	Reference 9.1, pay application testing 1. Agree source records to pay application - invoice dated within time frame of pay application - Project is referenced on invoice - Cost is allowed per 7.1 - Invoice is mathematically accurate		See 9.1
168	Main Agreement	Compensation and Payments for Preconstruction Phase Services	Payments	7	2.1.0	Payments for Preconstruction Phase Services shall be made monthly over the anticipated duration of the Preconstruction Phase following presentation and acceptance of the Construction Manager's invoice and shall be in proportion to services performed. In no event, however, will the aggregate of the Construction Manager's monthly invoices for Preconstruction Phase Services exceed the Preconstruction Fee.	Pay Application	Payments are made for unapproved expenses	High	1. Pay applications 2. Supporting records for costs, including labor	1. Pay application testing: see 9.1 2. Labor testing: see 9.13a, 9.2.1	9.1, 9.13a, 9.2.1.0	Review all pay applications for proper support and fee calculation
169	Main Agreement	Compensation and Payments for Preconstruction Phase Services	Payments	7	2.2.0	Payments are due and payable in accordance with Article 10 of this Agreement. Amounts unpaid after the date of which payments due shall bear interest in accordance with the Quick Payment Act.	Pay Application	Prompt payment to CM	Moderate	All pay applications	Payments agree to preconstruction fee established in agreement & change orders		Review all pay applications for proper support and fee calculation
170	Main Agreement	Compensation and Payments for Construction Phase Services	Compensation	8	1.1.0	The Department shall compensate and make payments to the Construction Manager for Construction Phase Services in accordance with this Article 8 - and Article 10 - . For the Construction Phase Services, the Construction Manager's compensation shall be as set forth in the Project Information Section of this Agreement (the "Construction Management Fee"). The Construction Manager acknowledges and agrees that the percentage of the total amount of the Construction Management Fee set forth in the Project Information Section of this Agreement is at risk (the 'At Risk Portion"), and the Construction Manager shall only be entitled to the At Risk Portion as set forth below. Unless and until the Construction Manager's entitlement to any subset of the At Risk Portion is determined by the Department, the Construction Manager shall only be entitled to bill for the portion of the Construction Management Fee that is not at risk (the "Base Construction Management Fee"). The Base Construction Management Fee shall be billed in accordance with Article 10 -	Pay Application	At-risk portion of fee is released prematurely, or released without approval of the committee	High	N/A	1. Validate committee approval of at-risk portion of fee prior to final payment, or validate that at-risk portion is removed from final payment if not approved.	Exhibit O	Monitor pay application payments, and do not release final payment until confirmation of committee approval/denial of at-risk portion of fee.
171	Main Agreement	Compensation and Payments for Construction Phase Services	Compensation	8	1.2.0	The At Risk Portion shall be used to establish and fund an award fee pool ("the Award Fee Pool"). Within sixty (60) days after approval and full execution of this Agreement, the Department shall appoint a committee that will determine entitlement to those portions of the Award Fee Pool so designated below (such committee, the "Award Fee Evaluation Committee"). The Award Fee Evaluation Committee will consist of: (i) the Department's Deputy Director for Capital Construction; (ii) a senior representative from Client Agency; and (iii) a senior member of the Program Management team that is not involved in the day-to-day management of this Project that is acceptable to both Parties.	See 9.1.1.0	See 9.1.1.0	See 9.1.1.0	N/A	See 9.1.1.0	Exhibit O	See 9.1.1.0
172	Main Agreement	Compensation and Payments for Construction Phase Services	Compensation	8	1.3.0	The Construction Manager may earn the At Risk Portion of the Construction Management Fee in accordance with Exhibit O.	See 9.1.1.0	See 9.1.1.0	See 9.1.1.0	N/A	See 9.1.1.0	Exhibit O	See 9.1.1.0
173	Main Agreement	Compensation and Payments for Construction Phase Services	Maximum Cost of General Conditions	8	2.0.0	The Construction Manager shall not be entitled to recover more than the amount set forth in the project Information Section of this Agreement for the Cost of General Conditions (such amount, the "Maximum Cost of General Conditions"). If, as a result of any Change Order(s) or Change Directive(s): (i) the Project durations extends beyond July 29, 2020; and (ii) the Construction Manager can demonstrate to the satisfaction of the Department that such additional Costs of General Conditions are reasonable and not due to any fault of the Construction Manager, its Subcontractors, materialmen, consultants or anyone making claims thereunder, the Construction Manager may request a Change Order to adjust the Maximum Cost of General Conditions and the GMP, which request shall be granted if funds are available in the Department's budget for the project. For the avoidance of doubt, the parties acknowledge that nothing in this Section 8.2 shall be constructed to preclude the Construction Manager from making a claim for any request denied under this Section 8.2, including, but not limited to, a request denied due to unavailability of funds. To the extent the Construction Manager incurs Costs of General Conditions in excess of the Maximum Cost of General Conditions, the Construction Manager shall not be entitled to reimbursement for such amounts unless the Department authorizes, in writing, an increase to the Maximum Cost of General Conditions. Nonetheless, in such an event the Construction Manager exceeds the Maximum Cost of General Conditions, the Construction Manager shall continue to be required to adequately staff the Project. For the avoidance of doubt, the parties acknowledge that this Section 8.2 is not intended to preclude any adjustment permitted by any other provision of this Agreement.	Pay Application	Payment is made beyond approved NTE, prior to execution of change orders.	Moderate	N/A	See 10.1	10.1	See 10.1
174	Main Agreement	Compensation and Payments for Construction Phase Services	Initial Not-to-Exceed Amount	8	3.0.0	Unless and until the GMP Amendment is executed and approved by the Council for the District of Columbia, this Agreement shall have an initial not-to-exceed amount as set forth in the project Information Section of this Agreement (the "Initial NTE"). A Schedule of Values for the Initial NTE amount including detailed descriptions of capital eligible expenditures is provided in Exhibit R. In no event shall the Construction Manager be entitled to recover more than the Initial NTE unless the Construction Manager is authorized to exceed the Initial NTE by the Department in advance and in writing. Prior to expending or committing any portion of the Initial NTE, the Construction Manager shall obtain the Department's written approval of such expenditure or commitment, as well as a determination as to whether the work will qualify as a "capital" expense under the Department's financial guidelines which are set forth in Section 4.3.1 of this Agreement. In making such a request, the Construction Manager shall submit an itemized breakdown of the work that the Construction Manager seeks to release using funds from the Initial NTE as well as the associated costs of such work.	Pay Application	Payment is made beyond the initial NTE, prior to execution of the GMP amendment	Moderate	N/A	See 10.1	10.1	See 10.1
175	Main Agreement	Compensation and Payments for Construction Phase Services	Project Budget	8	4.0.0	The Department has established a budget for the Project as set forth in the Information Section of this Agreement (such budget, the "Project Budget").	N/A	N/A	N/A	N/A	N/A		N/A
176	Main Agreement	Compensation and Payments for Construction Phase Services	No Adjustments to Fee	8	5.0.0	It is the Department's intent to engage the Construction Manager to develop a GMP that meets the Project Budget as set forth herein (i.e. designed to budget), to allow for Substantial Completion of the Work to be achieved no later than the Substantial Completion Date. The Construction Manager shall be entitled to earn additional Construction Management Fee on any and all changes other than changes for Differing Site Conditions or changes for delays of the kind contemplated in Section 5.11.3.2 of the Agreement; provided, however, that the Construction Manager shall be entitled to earn additional Construction Management Fee on changes for Differing Site Conditions once such changes in the aggregate exceed Two Million Dollars ($2,000,000).	Change Order	OH&P is overcharged on change orders. Payments are made for additional CM Fee	Moderate	See 17.2	See 17.2	17.2	See 17.2
177	Main Agreement	Compensation and Payments for Construction Phase Services	Markup on Trade Work	8	6.1.0	The maximum markup for change order work shall be as follows:	N/A	N/A	N/A	N/A	N/A		N/A
178	Main Agreement	Compensation and Payments for Construction Phase Services	Markup on Trade Work	8	6.1.1	For Work performed by a Subcontractor with its own forces, the Subcontractor shall be entitled to a mark-up of not more than fifteen percent (15%) (covering home office overhead, the cost of insurance and bonds, field supervision, general conditions and profit) on the Direct Costs of the Work. For Work that the Department permits the Construction Manager to self-perform, the Construction Manager shall also be entitled to a markup of not more than fifteen percent (ISVo) of the Direct Cost of the Work. With regard to any such \Work that is self-performed by the Construction Manager, the markup contemplated in this Section shall be the Construction Manager's exclusive compensation and it shall not be entitled to the markup contemplated in Section 8.6.1.3.	Change Order	OH&P is overcharged on change orders	Moderate	See 17.2	See 17.2	17.2	See 17.2
179	Main Agreement	Compensation and Payments for Construction Phase Services	Markup on Trade Work	8	6.1.2	Intervening tier Subcontractors shall be entitled to a markup of five percent (5%) (covering home office overhead, the cost of insurance and bonds, field supervision, general conditions and profit) on Work performed by lower-tier subcontractors.	Change Order	OH&P is overcharged on change orders	High	See 17.2	See 17.2	17.2	See 17.2
180	Main Agreement	Compensation and Payments for Construction Phase Services	Markup on Trade Work	8	6.1.3	To the extent permitted by Section 8.6, the Construction Manager shall be entitled to an increase in its Construction Management Fee at a rate of 4.5% on the Cost of the Work	Change Order	OH&P is overcharged on change orders	High	See 17.2	See 17.2	17.2	See 17.2
181	Main Agreement	Compensation and Payments for Construction Phase Services	Markup on Trade Work	8	6.1.4	In no event shall the maximum mark-up on the Direct Cost of the Work exceed twenty five percent (25%).	Change Order	OH&P is overcharged on change orders	High	See 17.2	See 17.2	17.2	See 17.2
182	Main Agreement	Compensation and Payments for Construction Phase Services	Direct Cost of Work	8	7.0.0	"Direct Cost of the Work" shall mean labor, material and other costs reasonably and necessarily incurred in the proper performance of the Work as approved by the Department and shall include, but not be limited to:	Pay Application	Payment made in excess of actual cost of work	High	See 9.1	See 9.1	9.1.0	See 9.1

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
183	Main Agreement	Compensation and Payments for Construction Phase Services	Direct Cost of Work	8	7.1.0	Payment will be made for direct labor cost plus indirect labor cost such as insurance, taxes, fringe benefits and welfare provided such costs are considered reasonable. Indirect costs shall be itemized and verified by receipted invoices. If verification is not possible, up to eighteen percent (18%) of direct labor costs may be allowed.	Labor	Labor burden/ fringe benefit costs are unsupported	High	See 9.2.1	See 9.2.1	9.1	See 9.2.1
184	Main Agreement	Compensation and Payments for Construction Phase Services	Direct Cost of Work	8	7.2.0	Payment for required equipment rented from an outside company that is neither an affiliate of, nor a subsidiary of, the Construction Manager will be based on receipted invoices which shall not exceed rates given in the current edition of the Rental Rate Blue Book for Construction Equipment published by Data Quest. If actual rental rates exceed manual rates, written justification shall be furnished to the Contracting Officer for consideration. No additional allowance will be made for overhead and profit. The Construction Manager shall submit written certification to the Contracting Officer that any required rented equipment is neither owned by nor rented from the Construction Manager or an affiliate of or subsidiary of the Construction Manager.	Pay Application	Payments exceed actual costs	High	See 9.1	See 9.1	9.1.0	See 9.1
185	Main Agreement	Compensation and Payments for Construction Phase Services	Direct Cost of Work	8	7.3.0	Payment for required equipment owned by the Construction Manager or an affiliate of the Construction Manager will be based solely on an hourly rate derived by dividing the current appropriate monthly rate by 176 hours. No payment will be made under any circumstances for repair costs, freight and transportation charges, fuel, lubricants, insurance, any other costs and expenses, or overhead and profit. Payment for such equipment made idle by delays attributable to the Government will be based on one-half the derived hourly rate under this subsection.	Pay Application	Overpayment for equipment usage	High	See 9.1	See 9.1	9.1.0	See 9.1
186	Main Agreement	Compensation and Payments for Construction Phase Services	Direct Cost of Work	8	7.4.0	Incorporated and unincorporated materials as permitted under Section 9.1.	N/A	N/A	N/A	N/A	N/A		N/A
187	Main Agreement	Compensation and Payments for Construction Phase Services	Direct Cost of Work	8	7.5.0	Direct Cost of the Work do not, however, include home office overhead, field supervision, general conditions or profit of the Construction Manager. No personnel above the level of a working foreman shall be considered a Direct Cost of the Work.	Labor	Unauthorized personnel are charged to the job for work performed	High	See 9.2.1	See 9.2.1	9.1	See 9.2.1
188	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.0.0	The term "Cost of the Work" shall mean the costs necessarily incurred by the Construction Manager in the proper performance of the Work and shall include only the following:	Pay Application	Payments are made for disallowed or unsupported expenses	High	1. Job Cost Report 2. Pay application 3. Time sheets/ payroll 4. GC support (including Bonds and Insurance) 5. Subcontractor PAs 6. Equipment cost support 7. Buy America Act (see 14.3)	1. Job cost testing: Reconcile CM job cost to billings. Analyze CM job cost for subcontractors, unusual costs, etc. 2. Pay application testing: See 10.1 3. Labor testing: Agree time sheets/ payroll to pay application. Verify mathematical accuracy and reasonableness 4. GC testing: see 7.1.1 5. Sub testing: Agree sub PAs to the CM PA, obtain proof of payment and lien releases 6. Buy America Act testing: see 14.3	7.1, 7.2, 8.7, 10.1	Review PAs for mathematical accuracy (including rollforward from prior period), reasonableness of costs (i.e. percent complete, components billed have been completed), verify all supporting records are provided
189	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.1.0	Payments made by the Construction Manager to Subcontractors and suppliers, other than design subconsultants, but only in accordance with the subcontracts and supply agreements	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1	9.1.0	See 9.1
190	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.2.0	[Intentionally Omitted]	N/A	N/A	N/A	N/A	N/A		N/A
191	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.3.0	All amounts due to the Construction Manager under the terms of the Department's written authorization for the Construction Manager to perform any portion of the Work as Self-Performed Work. If an authorization for the Construction Manager to engage in Self-Performed Work is not on a fixed-price basis, then, as to that Work, the following costs shall be within the Cost of the Work:	Pay Application	Self-performed work is not approved by the Owner	High	1. Owner approval for self-performed scopes of work 2. Pay application (see 9.1)	See 9.1	9.1	See 9.1
192	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.3.a	Properly documented wages actually paid to Project foremen, construction workers, and other personnel in the direct employ of the Construction Manager, while engaged in approved Self-Performed Work, together with contributions, assessments, payroll taxes, or fringe benefits required by the laws or applicable collective bargaining agreements. Labor provided by the Construction Manager's affiliate, Tompkins Builders Inc., shall be reimbursed at the rates set forth on Exhibit M. Such rates include contributions, assessments, payroll taxes, or fringe benefits required by the laws or applicable collective bargaining agreements other than as noted on Exhibit M. Such rates are stipulated and audit provisions extend only to confirming the stipulated rate multiplier has been applied properly	Labor	Payments are made for unapproved expenses	High	See 9.2.1	See 9.2.1	9.1	See 9.2.1
193	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.3.b	The cost, net of trade discounts, of all materials, products, supplies and equipment incorporated into the Self-Performed Work, including, without limitation, costs of transportation and handling.	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1 See Exhibit J 3.D.3		See 9.1
194	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.3.c	The cost of materials, products, supplies and equipment not actually installed or incorporated into the Self-Performed Work, but required to provide a reasonable allowance for waste or spoilage, subject to the Construction Manager's agreement to turn unused excess materials over to the Department at the completion of the Project or, at the Department's option, to sell the material and pay the proceeds to the Department or give the Department a credit in the amount of the proceeds against the Cost of the Work.	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1 See Exhibit J 3.D.3		See 9.1
195	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.4.0	Royalty and license fees paid for use of a design, process or product, if its use is required by this Agreement or has been approved in advance by the Department	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
196	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.5.0	Fees for obtaining all required approvals or permits associated with any abatement, demolition, utilities abandonment, and utility relocation (including utility connection fees), including any and all building and/or trade permits fees	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
197	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.6.0	Notwithstanding Section 1 1.1.6 of this Agreement, all performance and payment bonds, subcontractor default insurance and other insurance costs at the rates set forth in Section 11.3 as well as the costs associated with the coverage required by Section 11.1.1.11	Bonds	Payments are made for unapproved expenses	High	See 9.1	See 9.1	9.1.6; 9.1.8; 11.1.6; 11.2; 11.3; Exhibit J 3.D.2, 9.0, 19.0	See 9.1
198	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.7.0	All fees and other costs necessarily incurred to carry out testing and inspection required by the Agreement or applicable laws, or otherwise to maintain proper quality assurance. The costs the Construction Manager incurs to schedule and coordinate any additional testing and inspections the Department may decide to conduct itself shall be reimbursable as General Conditions unless the additional testing establishes that the Work tested was defective or otherwise failed to satisfy requirements set forth in the Agreement, in which case the Construction Manager shall pay the costs, without reimbursement.	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
199	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.8.0	All bonds to jurisdictional agencies (utilities, storm water management, land disturbance, and grading)	Bonds	Payments are made for unapproved expenses and bond costs are greater than industry standard	High	See 9.1	See 9.1	9.1.6; 9.1.8; 11.1.6; 11.2; 11.3; Exhibit J 3.D.2, 9.0, 19.0	See 9.1
200	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.9.0	The Cost of General Conditions, subject however to the Maximum Cost of General Conditions	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
201	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.10.0	Costs of repairing or correcting damaged or nonconforming Work executed by Construction Manager, Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by gross negligence or failure to fulfill a specific responsibility of the Construction Manager, and only to the extent that the cost of repair or correction is not recoverable by the Construction Manager from insurance, sureties, Subcontractors or suppliers, It is understood that the cost of repairing, correcting damaged or nonconforming Work that was Self-Performed shall not be reimbursable in any event.	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
202	Main Agreement	Cost of Work for Construction Phase	Cost of the Work	9	1.11.0	Out of house consultants, including but not limited to, DSLBD compliance reporting, scheduling, industrial hygienist, QC, safety consultants, photography, and other consultants as required to support the scope of the work as defined in the Contract Documents will be competitively procured once the scope of work is defined by the Contract Documents.	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
203	Main Agreement	Cost of Work for Construction Phase	Cost of General Conditions	9	2.0.0	Items included in the Cost of General Conditions are all items necessary to perform Construction Phase Services described herein including, but not limited to:	General Conditions	Payments are made for unapproved expenses	High	See 7.1.1	See 7.1.1	7.1.1, 9.1	See 7.1.1
204	Main Agreement	Cost of Work for Construction Phase	Cost of General Conditions	9	2.1.0	Cost of construction staff (only staff stationed in the field is reimbursable; however, exceptions will be made for scheduling, cost estimating, accounting services and other staff if such functions are normally provided by the Construction Manager's regional and/or home office personnel). The staff identified on **Exhibit E** shall be chargeable as Cost of General Conditions at the rates set forth thereon.	Labor	Payments are made for unapproved expenses	High	1. Certified payroll 2. Pay stubs 3. Documentation supporting fringe benefit cost 4. Labor rate and staff sheet (exhibit E), or updates to staff list	Labor testing: 1. Agree and recalculate certified payroll hours, costs to the pay application 2. Recalculate and validate fringe benefit costs 3. Verify staff charged to project are listed on Exhibit E, and Exhibit F 4. Verify rates were used per Exhibit E 5. Verify work was not performed during the hours noted in Exhibit J 16C	5.7.1, 5.7.2, 9.1	See 9.1. Ensure no payments are made for labor incurred for unauthorized personnel
205	Main Agreement	Cost of Work for Construction Phase	Cost of General Conditions	9	2.2.0	Fringe Benefits associated with construction staff costs	Labor	Payments are made for unapproved expenses	High	See 9.2.1	See 9.2.1	9.1	See 9.2.1
206	Main Agreement	Cost of Work for Construction Phase	Cost of General Conditions	9	2.3.0	Payroll taxes and payroll insurance associated with construction staff costs	Labor	Payments are made for unapproved expenses	High	See 9.2.1	See 9.2.1	9.1	See 9.2.1
207	Main Agreement	Cost of Work for Construction Phase	Cost of General Conditions	9	2.4.0	Staff costs associated with obtaining permits and approvals. Permit costs will be paid for by the Owner.	Labor	Payments are made for unapproved expenses	High	See 9.2.1	See 9.2.1	9.1	See 9.2.1
208	Main Agreement	Cost of Work for Construction Phase	Cost of General Conditions	9	2.5.0	Field office for CM including but not limited to: (i) trailer purchase and/or rent; (ii) field office installation, relocation and removal; (iii) furniture: (iv) office supplies; however all temporary utility connections and consumption charges through beneficial occupancy during the Construction Services Phase shall be paid by the Owner;	General Conditions	Payments are made for unapproved expenses	High	See 7.1.1	See 7.1.1	7.1.1, 9.1	See 7.1.1

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Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
209	Main Agreement	Cost of Work for Construction Phase	Cost of General Conditions	9	2.6.0	Field office expenses, postage, facsimile transmissions; costs and expenses directly related to the Work and in connection with telephone service; monthly costs for radios, cell phones, PDAs, internet access; IT costs, telegrams; postage; overnight courier; messenger service; stationery; blueprinting; reproduction costs; establishment operation and maintenance of the Project field office such as supplies, records retention, consumables (e.g. drinking water), office equipment, job site remote or standalone computer terminal(s) and maintenance, fax machines, copy machines, telephone equipment, digital cameras, local computer network and servers, software licenses (e.g. Microsoft, Primavera, Prolog) furnishings; and other incidental expenses in carrying out the Work.	General Conditions	Payments are made for unapproved expenses	High	See 7.1.1	See 7.1.1	7.1.1, 9.1	See 7.1.1
210	Main Agreement	Cost of Work for Construction Phase	Cost of General Conditions	9	2.7.0	Local delivery and overnight delivery costs	General Conditions	Payments are made for unapproved expenses	High	See 7.1.1	See 7.1.1	7.1.1, 9.1	See 7.1.1
211	Main Agreement	Cost of Work for Construction Phase	Cost of General Conditions	9	2.8.0	Field computer network; and	General Conditions	Payments are made for unapproved expenses	High	See 7.1.1	See 7.1.1	7.1.1, 9.1	See 7.1.1
212	Main Agreement	Cost of Work for Construction Phase	Cost of General Conditions	9	2.9.0	First aid facility	General Conditions	Payments are made for unapproved expenses	High	See 7.1.1	See 7.1.1	7.1.1, 9.1	See 7.1.1
213	Main Agreement	Cost of Work for Construction Phase	Costs Not to Be Reimbursed	9	3.0.0	All costs not specifically listed in Section 9.1 as being within the Cost of the Work are excluded from the Cost of the Work and shall not be reimbursable. In particular, but without limitation, the Cost of the Work does not include any of the following:	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
214	Main Agreement	Cost of Work for Construction Phase	Costs Not to Be Reimbursed	9	3.1.0	Any personnel or labor costs other than those provided for in Section 9.1.3(a) or 9.2.1	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
215	Main Agreement	Cost of Work for Construction Phase	Costs Not to Be Reimbursed	9	3.2.0	Fees for any permits or licenses the Construction Manager requires to conduct its general business operations	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
216	Main Agreement	Cost of Work for Construction Phase	Costs Not to Be Reimbursed	9	3.3.0	Capital expenses and interest on capital employed for the Work	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
217	Main Agreement	Cost of Work for Construction Phase	Costs Not to Be Reimbursed	9	3.4.0	Direct or indirect costs of any kind, except those expressly included in Section 9.1	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
218	Main Agreement	Cost of Work for Construction Phase	Costs Not to Be Reimbursed	9	3.5.0	Sales or use taxes, unless the Construction Manager establishes that applicable law required payment of such taxes	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
219	Main Agreement	Cost of Work for Construction Phase	Costs Not to Be Reimbursed	9	3.6.0	[Intentionally Deleted]	N/A	N/A	N/A	N/A	N/A		N/A
220	Main Agreement	Cost of Work for Construction Phase	Costs Not to Be Reimbursed	9	3.7.0	Costs dues to breach of the Agreement by the Construction Manager or its Subcontractors or material suppliers at all tiers, including, without limitation, costs arising from defective or damaged Work or its correction, disposal of materials or equipment erroneously supplied, and repairs to property damaged by the Construction Manager or its Subcontractors or material suppliers at all tiers	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
221	Main Agreement	Cost of Work for Construction Phase	Costs Not to Be Reimbursed	9	3.8.0	Any costs incurred in performing work of any kind before Notice to proceed, unless specifically authorized by a duly authorized Contracting Officer of the Department in advance and in writing;	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
222	Main Agreement	Construction Phase	Costs Not to Be Reimbursed	9	3.9.0	Except as provided in Section 9.1.10 of this Agreement, costs due to the errors or omissions of the Construction Manager or its Subcontractors or suppliers at all tiers, grossly negligent or otherwise	Pay Application	Payments are made for unapproved expenses	High	See 9.1	See 9.1		See 9.1
223	Main Agreement	Cost of Work for Construction Phase	Discounts, Rebates, and Refunds	9	4.1.0	Cash discounts obtained on payments made by the Construction Manager shall accrue to the Department if: (i) before making such payment(s), the Construction Manager included them in an Application for Payment and received payment therefore from the Department; or (ii) the Department has deposited funds with the Construction Manager wish which to make such payment(s). All other cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Department, and the Construction Manager shall make provisions so that such amounts can be secured	Pay Application	Rebates and discounts are not properly applied against the cost of work	High	See 9.1	See 9.1		See 9.1
224	Main Agreement	Cost of Work for Construction Phase	Discounts, Rebates, and Refunds	9	4.2.0	Amounts that accrue to the Department in accordance with the provisions of Section 9.4.1 shall be credited to the Department as a deduction from the Cost of the Work.	Pay Application	Rebates and discounts are not properly applied against the cost of work	High	See 9.1	See 9.1		See 9.1
225	Main Agreement	Cost of Work for Construction Phase	Facilitating Tax Exempt Purchases	9	5.0.0	The Department expects that the Project will qualify as tax-exempt under applicable laws. Upon request, the Department will provide the Construction Manager with the necessary information relating to the tax exemption. In the event any savings are attributable to the tax exempt status of the Project, the Construction Manager shall not be entitled to share in such savings	Pay Application	Double-payment for tax exemption program	High	Memo, procedure, or other details pertaining to administration of the tax exempt purchases program	See 9.1		See 9.1
226	Main Agreement	Cost of Work for Construction Phase	Accounting Records	9	6.0.0	The Construction Manager shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under the Agreement. The Construction Manager's accounting and control systems shall be satisfactory to the Department. The Department, its representatives, and the Department's accountants shall be afforded access to the Construction Manager's records, books, correspondence, instruction, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to this Project, and the Construction Manager shall preserve such documentation relating to the Project for a period of three years after final payment, or for such longer period as may be required by law	N/A	N/A	N/A	N/A	N/A		N/A
227	Main Agreement	Cost of Work for Construction Phase	Excluded Cost Elements	9	7.0.0	It is the Department's intent that the Construction Manager provide a turnkey solution for the implementation of the Project, and the Project Budget set herein has been developed based on such framework. The Construction Manager shall work with the Department and the Architect towards the goal of advancing the Project in a manner consistent with the Project Budget with the understanding that only the following cost elements shall be excluded from the Project Budget set forth herein: 1. 3rd Party Material Testing 2. Commissioning; 3. 3rd Party Inspections; 4. Costs of active DCPS equipment; 5. 3rd Party Plan Review; 6. Public Art; 7. Cost of items salvaged from other Client Agency locations as agreed between the Construction Manager and the Department, in consultation, as necessary, with Client Agency; Cost of transporting, and installing the salvaged items are not excluded. Any and all such items shall be identified in the Preconstruction Phase; 8. Design services; 9. furniture, fixtures and equipment; 10. Removal of existing trailers on site and site improvements;	N/A	N/A	N/A	N/A	N/A		N/A
228	Main Agreement	Construction Phase Payments	Progress Payments	10	1.0.0	The Construction Manager shall be compensated in a series of progress payments and a Final Payment, for Work completed in accordance with the Agreement, and for which proper Applications for Payment have been submitted and approved. The amount of each progress payment shall be as follows: The Cost of Work Completed to Date Plus Cost of Work for Pay Period x Base Construction Management Fee Current approved estimated Cost of Work through Final Completion Plus Any subset of the Award Fee Pool to which the Department has determined the Construction Manager to be entitled Minus Applicable Retainage Minus Amounts previously paid by the Department	Pay Application	Pay application is mathematically incorrect	High	1. Pay application 2. CM job cost report for reporting period 3. Stored materials log 4. All CM and subcontractor lien waivers (in format of Exhibit K) 5. For late payments, evidence of Owner communication to CM for deficiencies in PA submission	Pay application testing: 1. Perform mathematical roll forward for all pay applications. Investigate differences. 2. Validate timely submission (by 25th of following month) as required by 10.8 3. Recalculate fee and retention (including at-risk portion) 4. Reconcile stored materials log to PA 5. Verify appropriate approvals: CM, Owner, Architect 6. Verify all lien waivers obtained for current period. Verify lien waivers meet requirement of Exhibit K. Agree lien waiver amount to CM/ subcontractor pay applications. 7. Validate certifications as required in 10.5.0 - 10.5.5 8. For payments over 15 days, verify Owner notified CM of deficiencies in pay application submission (see 10.9 and 10.14) 9. Incorporate testing related to tax exempt purchases	9.1.6; 9.1.8; 11.1.6; 11.2; 11.3; Exhibit J 3.D.2, 9.0, 19.0, Exhibit K Exhibit J 25.A,B Exhibit O	See 9.1

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Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
229	Main Agreement	Construction Phase Payments	Retention	10	2.0.0	The Department shall withhold from each progress payment an amount equal to ten percent (10%) of the payment related to: (i) each Subcontract and supply agreement; (ii) the Preconstruction Fee; (iii) Construction Management Fee; and (v) the Cost of the Work related to each item of Self-Performed Work, until such time as fifty percent (50%) of the then currently budgeted cost associated with each such item has been invoiced, at which point the Department may cease retaining against such item; avoided, however, that retention shall not be held on the costs of bonds, insurances, and those elements of the general requirements which consist of a single, insolated effort such as dumpster disposal and safety carpentry. The Department may elect to increase the retention on any trade Subcontractor up to ten percent (10%) in the event the Department determines that the situation so warrants. The Department, in its sole and absolute discretion, may elect to reduce the retainage relating to a particular trade Subcontractor, or the Cost of the Work related to a specific item of Self-Performed Work to zero upon: (a) satisfactory completion of such Work; (b) submission of all required warranties, certifications, and operating or maintenance instructions with respect to that Work; and (c) execution of appropriate waivers of lien and releases of claims. However, in no event shall the total retainage held by the Department be reduced to an amount that is less than two and one half percent (2.5%) of the GMP.	Pay Application	Retention is not properly calculated/ withheld	High	See 10.1	See 10.1	10.1	See 9.1
230	Main Agreement	Construction Phase Payments	Documents Required with Application for Payment	10	3.0.0	Each Application for Payment shall be accompanied by the Construction Manager's job cost ledgers in a form satisfactory to the Department, the Subcontractors' and Suppliers' Applications for Payment on AIA Documents G702 and G703 or other form acceptable to the Department, and such other supporting documentation as the Department may reasonably request. The Construction Manager's Application for Payment to the extent speaking of completed Work shall be deemed to mean completed and forecasted work through the end of the Application for Payment period. Further, if the AIA G702/G703 Application for Payment is used, the certification therein shall be deemed deleted and replaced with the following: "To the best of the Construction Manager's knowledge, information and belief the Work, other than the forecasted portion, covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts due have been or will be paid by the Construction Manager for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due." Each Application for Payment shall include detailed documentation of costs as a condition to approving progress payments, but the Construction Manager shall nevertheless maintain complete documentation of the costs. An executed Release of Liens and Claims in the format required by the Contracting Officer must accompany each Application for Payment.	Pay Application	Amount due is not calculated correctly	High	See 10.1	See 10.1	10.1	See 9.1
231	Main Agreement	Construction Phase Payments	Stored Materials	10	4.0.0	The Department shall not be required to pay for materials stored at the site or stored at other locations absent prior written authorization to do so, which authorization may be withheld at the Department's sole discretion. If the Department expressly agrees to pay for materials stored at the site but not yet incorporated into the Work, the Application for Payment may also include a request for payment of the cost of such materials, if the materials have been delivered to the site, and suitably stored. Such requests shall be documented by appropriate invoices and bills of sale. Payment for stored materials shall be conditioned also on the Construction Manager's representation that it has inspected the material and found it to be free from defect and otherwise in conformity with this Agreement, and on satisfactory evidence that the materials are insured under the builder's risk policy. Further, if the Construction Manager requests the Department to allow payments for storage of materials offsite, the Construction Manager shall be required, inter alia, to agree to execution of proper documentation to afford the Department a secured interest in the materials upon payment.	Pay Application	Payment made for stored materials off site	Moderate	See 10.1	See 10.1	10.1	Monitoring of stored material log, supporting records. For large value stored materials, inspection of material at storage facility.
232	Main Agreement	Construction Phase Payments	Construction Manager's Certification	10	5.0.0	Each Application for Payment shall be accompanied by the Construction Manager's signed certification that, to the best of the knowledge, information and belief:	Pay Application	Pay application does not contain appropriate approvals	Low	See 10.1	See 10.1	10.1	See 10.1
233	Main Agreement	Construction Phase Payments	Construction Manager's Certification	10	5.1.0	all amounts paid to the Construction Manager on the previous Application for Payment that were attributable to Subcontractor Work or to materials or equipment being supplied by any supplier have been paid over to the appropriate Subcontractors and suppliers;	Pay Application	Pay application does not contain appropriate approvals	Low	See 10.1	See 10.1	10.1	See 10.1
234	Main Agreement	Construction Phase Payments	Construction Manager's Certification	10	5.2.0	that all amounts currently sought for Subcontractor Work or supply of materials or equipment are currently due and owing to the Subcontractors and material or equipment suppliers;	Pay Application	Pay application does not contain appropriate approvals	Low	See 10.1	See 10.1	10.1	See 10.1
235	Main Agreement	Construction Phase Payments	Construction Manager's Certification	10	5.3.0	that all Work, materials or equipment for which payment is sought is, to the best of the Construction Manager's knowledge, free from defect and meets all of the requirements set forth in the Agreement; and	Pay Application	Pay application does not contain appropriate approvals	Low	See 10.1	See 10.1	10.1	See 10.1
236	Main Agreement	Construction Phase Payments	Construction Manager's Certification	10	5.4.0	that the Construction Manager's subcontracts include the clauses required by subparagraphs (1) through (4) of D.C. Official Code §2-221.02(d) (2017).	Pay Application	Pay application does not contain appropriate approvals	Low	See 10.1	See 10.1	10.1	See 10.1
237	Main Agreement	Construction Phase Payments	Construction Manager's Certification	10	5.5.0	The Construction Manager shall not include in an Application for Payment amounts for Work for which the Construction Manager does not intend to pay.	Pay Application	Payments are made for unapproved expenses	Moderate	See 10.1	See 10.1	10.1	See 10.1
238	Main Agreement	Construction Phase Payments	Lien Waivers	10	6.0.0	Each Application for Payment shall be accompanied by written waivers of the right to file a mechanic's lien and all other claims, in a form substantially similar to Exhibit K for the Construction Manager and all Subcontractors and material suppliers at all tiers who have supplied labor or material or both for which payment is requested, subject only to receipt of payment. If the Department so requests, the Construction Manager shall also submit unconditional waivers of liens for itself and all Subcontractors and material suppliers at all tiers with respect to Work or materials or equipment for which payment has been previously made, and additional forms of waiver acknowledging receipt of final payment under the Agreement, and providing final release of such liens.	Pay Application	Payment made to CM and/or subs without conditional or unconditional lien waivers	High	See 10.1	See 10.1	10.1	See 10.1
239	Main Agreement	Construction Phase Payments	Warranty of Title	10	7.0.0	By submitting an Application for Payment, the Construction Manager warrants to the Department that title to all Work for which payment is sought will pass to the Department, without liens, claims, or other encumbrances, upon the receipt of payment by the Construction Manager. The Department may require execution of appropriate documents to confirm passage of clear title. Passage of title shall not operate to pass the risk of loss with respect to the Work in question. Risk of loss remains with the Construction Manager until Substantial Completion, unless otherwise agreed by the Department, in writing.	N/A	N/A	N/A	N/A	N/A		N/A
240	Main Agreement	Construction Phase Payments	Submission	10	8.0.0	On the twenty-fifth day of each month the Construction Manager shall submit to the Department (with a copy to the Program Manager) an Application for Payment, which Application for Payment shall cover the entire month during which the Application for Payment is submitted. All amounts formally submitted via Application for Payment and not disputed by the Department shall be due and payable on the last day of the month following submission or, if that is not a business day, on the following business day. If the Construction Manager and Department are unable to agree on the amounts properly due and owing, the Department shall pay in accordance with its good faith determination and the Construction Manager may protest and pursue a claim as provided in this Agreement and the Standard Contract Provisions.	Pay Application	Pay applications are not submitted timely	High	See 10.1	See 10.1		N/A
241	Main Agreement	Construction Phase Payments	Right to Withhold Payments	10	9.0.0	The Department will notify the Construction Manager within fifteen (15) days after receiving any Application for Payment of any defect in the Application for Payment or the Construction Manager's performance which may result in the Department's declining to pay all or a part of the requested amount. The Department may withhold payment from the Construction Manager, in whole or part, as appropriate, if:	Pay Application	Payments are made for unfinished or defective work	High	See 10.1	See 10.1	10.1	See 10.1
242	Main Agreement	Construction Phase Payments	Right to Withhold Payments	10	9.1.0	Defective Work not commenced to be remedied within thirty (30) days following written notice from the Department and provided the cost to correct said defective Work exceeds the amount of retention held by the Department;	Pay Application	Payments are made for unfinished or defective work	High	See 10.1	See 10.1	10.1	See 10.1
243	Main Agreement	Construction Phase Payments	Right to Withhold Payments	10	9.2.0	the Department has determined that the Construction Manager's progress has fallen behind the Project Schedule, and the Construction Manager fails, within fourteen (14) calendar days of the Department's written demand, to provide the Department with a realistic and acceptable Recovery Plan in accordance with Section 5.18	Pay Application	Payments are made for unfinished or defective work	High	See 10.1	See 10.1	10.1	See 10.1
244	Main Agreement	Construction Phase Payments	Right to Withhold Payments	10	9.3.0	the Construction Manager's monthly schedule update reflects that the Construction Manager has fallen materially behind the Project Schedule, and the Construction Manager fails to provide a realistic and acceptable Recovery Plan in accordance with Section 5.18 if requested by the Department	Pay Application	Payments are made for unfinished or defective work	High	See 10.1	See 10.1	10.1	See 10.1
245	Main Agreement	Construction Phase Payments	Right to Withhold Payments	10	9.4.0	the Construction Manager has repeatedly failed to provide reports in full compliance with Section 5.5 of this Agreement	Pay Application	Payments are made for unfinished or defective work	High	See 10.1	See 10.1	10.1	See 10.1
246	Main Agreement	Construction Phase Payments	Right to Withhold Payments	10	9.5.0	the Construction Manager has failed to pay Subcontractors or suppliers promptly or has made false or inaccurate certifications that payments to Subcontractors or suppliers are due or have been made	Pay Application	Payments are made for unfinished or defective work	High	See 10.1	See 10.1	10.1	See 10.1
247	Main Agreement	Construction Phase Payments	Right to Withhold Payments	10	9.6.0	any mechanic's lien has been filed against the Department, the site or any portion thereof or interest therein, or any improvements on the site, even though the Department has paid all undisputed amounts due to the Construction Manager, and the Construction Manager, upon notice, has failed to remove the lien, by bonding it off or otherwise, within ten (10) calendar days	Pay Application	Payments are made for unfinished or defective work	High	See 10.1	See 10.1	10.1	See 10.1
248	Main Agreement	Construction Phase Payments	Right to Withhold Payments	10	9.7.0	the Department has reasonable evidence that the Work will not be completed by the Substantial Completion Date, as required, that the unpaid balance of the GMP would not be adequate to cover actual or liquidated damages arising from the anticipated delay	Pay Application	Payments are made for unfinished or defective work	High	See 10.1	See 10.1	10.1	See 10.1
249	Main Agreement	Construction Phase Payments	Right to Withhold Payments	10	9.8.0	the Department has reasonable evidence that the Work cannot be completed for the unpaid balance of the GMP	Pay Application	Payments are made for unfinished or defective work	High	See 10.1	See 10.1	10.1	See 10.1
250	Main Agreement	Construction Phase Payments	Right to Withhold Payments	10	9.9.0	the Construction Manager is otherwise in substantial breach of this Agreement (including, without limitation, failures to comply with LSDBE Utilization requirements.	Pay Application	Payments are made for unfinished or defective work	High	See 10.1	See 10.1	10.1	See 10.1
251	Main Agreement	Construction Phase Payments	Right to Withhold Payments	10	9.10.0	the Application for Payment is incomplete, unsubstantiated and/or does not contain sufficient documentation for evaluation by the Contracting Officer.	Pay Application	Payments are made for unfinished or defective work	High	See 10.1	See 10.1	10.1	See 10.1
252	Main Agreement	Construction Phase Payments	Payment Not Acceptance	10	10.0.0	Payment of any progress payment or final payment shall not constitute acceptance of Work that is defective or otherwise fails to conform to the Agreement, or a waiver of any rights or remedies the Department may have with respect to defective or nonconforming Work.	N/A	N/A	N/A	N/A	N/A		N/A
253	Main Agreement	Construction Phase Payments	Department Not Obligated to Others	10	11.0.0	The Department shall have no obligation to pay or be responsible in any way for payments to a consultant or subcontractor performing portions of the Work.	N/A	N/A	N/A	N/A	N/A		N/A

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254	Main Agreement	Construction Phase Payments	Final Payment	10	12.0.0	A final payment ("Final Payment") shall be made by the Department to the Construction Manager when: (i) Final Completion has been achieved; (ii) all deliverables set forth in Section 5.14, and Exhibit N have been delivered to and are accepted by the Department; (iii) the Construction Manager provides the Department a complete set of product manuals (O&M), training videos, and warranties, as applicable; and (iv) a complete final Application for Payment and a final accounting for the Cost of the Work have been submitted by the Construction Manager and reviewed by the Department and, to the extent the Department determines appropriate, the Department's accountants. The Department shall make Final Payment not more than thirty (30) days after the Department verifies the amount of the final payment set forth in a complete final Application for Payment.	Closeout	Final payment is made prior to acceptance of all deliverables	High	See 5.14.3	See 5.14.3	5.14.3	See 5.14.3
255	Main Agreement	Construction Phase Payments	Final Payment	10	12.1.0	The amount of the Final Payment shall be calculated as follows:	N/A	N/A	N/A	N/A	N/A		N/A
256	Main Agreement	Construction Phase Payments	Final Payment	10	12.1.1	Take the sum of the Cost of the Work substantiated by the Construction Manager's final accounting and the Preconstruction Fee and the Construction Management Fee as adjusted to reflect whether the goals established in Exhibit O have been met; but not more than the GMP	Pay Application	Payment is made for an amount greater than allowed by the contract documents.	High	See Exhibit O.3	See Exhibit O.3	12.1.1 - 12.3	See Exhibit O.3
257	Main Agreement	Construction Phase Payments	Final Payment	10	12.1.2	Subtract amounts, if any, for which the Department withholds pursuant to the Agreement.	Pay Application	Payment is made for an amount greater than allowed by the contract documents.	High	See Exhibit O.3	See Exhibit O.3	12.1.1 - 12.3	See Exhibit O.3
258	Main Agreement	Construction Phase Payments	Final Payment	10	12.1.3	Subtract the aggregate of previous payments made by the Department. (If the aggregate of previous payments made by the Department exceeds the amount due the Construction Manager, the Construction Manager shall promptly reimburse the difference to the Department).	Pay Application	Payment is made for an amount greater than allowed by the contract documents.	High	See 10.1.0	See 10.1.0	See 10.1.0	See 10.1.0
259	Main Agreement	Construction Phase Payments	Final Payment	10	12.1.4	The Final Payment shall take into account any savings accruing to the Department or the Construction Manager.	Pay Application	Payment is made for an amount greater than allowed by the contract documents.	High	See 10.1.0	See 10.1.0	See 10.1.0	See 10.1.0
260	Main Agreement	Construction Phase Payments	Final Payment	10	12.2.0	The Department will review and report in writing on the Construction Manager's final accounting within 30 days after delivery of the final accounting to the Department by the Construction Manager. Based upon Department's determination of the Cost of the Work, and provided the other conditions of Section 10.12. I have been met, the Department will, within fifteen (15) days after the Department's determination, notify the Construction Manager of any amount that the Department will withhold and the reasons therefor. The time periods stated in this Paragraph 9.12 supersede those for typical progress payments.	Pay Application	Payment is made for an amount greater than allowed by the contract documents.	High	See 10.1.0	See 10.1.0	See 10.1.0	See 10.1.0
261	Main Agreement	Construction Phase Payments	Final Payment	10	12.3.0	If the Department determines that the Cost of the Work is less than claimed by the Construction Manager, the Construction Manager shall be entitled to proceed in accordance with Article 7 of the Standard Contract Provisions. Pending a final resolution of the disputed amount, the Department shall pay the Construction Manager the amount that the Department determines to be appropriate.	Pay Application	Payment is made for an amount greater than allowed by the contract documents.	High	See 10.1.0	See 10.1.0	See 7A-C, 10.1.0	See 10.1.0
262	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.1.0	The Construction Manager at its sole expense, as a Cost of the Work, shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Construction Manager shall have its insurance broker or insurance company submit a Certificate of Insurance to the Contracting Officer ("CO") giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A- / VII or higher. The Construction Manager shall require all of its subcontractors to carry the same insurance required herein.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	Verify the certificate of insurance is active and compliant with contract requirements in Section 11		Department should be validating that COI are active and compliant with contract requirements before payment remitted to CM
263	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.1.1	All required policies shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	insurance certificate; Waiver of Subrogation	Verify the certificate of insurance is active and compliant with contract requirements in Section 11		See 11.1.1
264	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.1.2	The Government of the District of Columbia shall be included in all policies required hereunder to be maintained by the Construction Manager and its subcontractors (except for workers' compensation and professional liability insurance) as an additional insureds for claims against The Government of the District of Columbia relating to this contract, with the understanding that any affirmative obligation imposed upon the insured Construction Manager or its subcontractors (including without limitation the liability to pay premiums) shall be the sole obligation of the Construction Manager or its subcontractors, and not the additional insured. The additional insured status under the Construction Manager's and its subcontractors' Commercial General Liability insurance policies shall be effected using the ISO Additional Insured Endorsement form CG 20 10 11 85 (or CG 20 10 07 04 and CG 20 37 07 04) or such other endorsement or combination of endorsements providing coverage at least as broad and approved by the CO in writing. All of the Construction Manager's and its subcontractors' liability policies (except for workers' compensation and professional liability insurance) shall be endorsed using ISO form CG 20 OI0413 or its equivalent so as to indicate that such policies provide primary coverage (without any right of contribution by any other insurance, reinsurance or self-insurance, including any deductible or retention, maintained by an Additional Insured) for all claims against the additional insured arising out of the performance of this Statement of Work by the Construction Manager or its subcontractors, or anyone for whom the Construction Manager or its subcontractors may be liable. These policies shall include a separation of insureds clause applicable to the additional insured.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
265	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.1.3	If the Construction Manager and"/or its subcontractors maintain broader coverage and/or higher limits than the minimums shown below, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Grantee and subcontractors.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
266	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.1.4	The Construction Manager shall provide evidence satisfactory to the CO with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services Office, Inc. ("ISO") form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by the CO in writing), covering liability for all ongoing and completed operations of the Construction Manager, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including without limitation sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than $1,000,000 each occurrence, a $2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a $1,000,000 personal and advertising injury limit, and a $2,000,000 products-completed operations aggregate limit.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
267	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.1.5	The Construction Manager shall provide evidence satisfactory to the CO of commercial (business) automobile liability insurance written on ISO form CA 00 01 10 13 (or another form with coverage at least as broad and approved by the CO in writing) including coverage for all owned, hired, borrowed and non-owned vehicles and equipment used by the Construction Manager, with minimum per accident limits equal to the greater of (i) the limits set forth in the Construction Manager's commercial automobile liability policy or (ii) $1,000,000 per occurrence combined single limit for bodily injury and property damage.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
268	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.1.6	The Construction Manager shall provide evidence satisfactory to the CO of Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed. Employer's Liability Insurance - The Construction Manager shall provide evidence satisfactory to the CO of employer's liability insurance as follows: $500,000 per accident for injury; $500,000 per employee for disease; and $500,000 for policy disease limit. All insurance required by this paragraph 3 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
269	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.1.7	The Construction Manager shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than $5,000,000 per occurrence or claim, $5,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Construction Manager in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. This insurance requirement will be considered met if the general liability insurance includes an affirmative cyber endorsement for the required amounts and coverages.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
270	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.1.9	The Construction Manager shall provide evidence satisfactory to the CO of pollution legal liability insurance covering losses caused by pollution conditions that arise from the ongoing or completed operations of the Construction Manager. Completed operations coverage shall remain in effect for at least ten (10) years after completion of the work. Such insurance shall apply to bodily injury, property damage (including loss of use of damaged property or of property that has been physically injured), cleanup costs, liability and cleanup costs while in transit, and defense (including costs and expenses incurred in the investigation, defense and settlement of claims). There shall be neither an exclusion nor a sublimit for mold-related claims. The minimum limits required under this paragraph shall be equal to the greater of (i) the limits set forth in the Construction Manager's pollution legal liability policy or (ii) $5,000,000 per occurrence and $5,000,000 in the annual aggregate. If such coverage is written on a claims-made basis, the Construction Manager warrants that any retroactive date applicable to coverages under the policy precedes the Construction Manager's performance of any work under the Contract and that continuous coverage will be maintained or an extended reporting period will be exercised for at least ten (10) years after completion. The Construction Manager also must furnish to the Owner certificates of insurance evidencing pollution legal liability insurance maintained by the transportation and disposal site operators(s) used by the Construction Manager for losses arising from facility(ies) accepting, storing or disposing hazardous materials or other waste as a result of the Construction Manager's operations. Such coverages must be maintained with limits of at least the amounts set forth above.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
271	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.1.10	The Construction Manager shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The policy shall provide limits of $5,000,000 per claim or per occurrence for each wrongful act and $5,000,000 annual aggregate. The Construction Manager warrants that any applicable retroactive date precedes the date the Construction Manager first performed any professional services for the Government of the District of Columbia and that continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least ten years after the completion of the professional services.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
272	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.1.11	The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to the services performed that it carries $1,000,000 per occurrence limits; $2,000,000 aggregate of affirmative abuse and molestation liability coverage. This insurance requirement will be considered met if the general liability insurance includes an affirmative sexual abuse and molestation endorsement for the required amounts. So called "silent" coverage under a commercial general liability or professional liability policy will not be acceptable.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
273	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.1.12	The Construction Manager shall provide evidence satisfactory to the CO of commercial umbrella or excess liability insurance with minimum limits equal to the greater of (i) the limits set forth in the Construction Manager's umbrella or excess liability policy or (ii) $20,000,000 per occurrence and $20,000,000 in the annual aggregate, following the form and in excess of all liability policies. All required liability coverages must be scheduled under the umbrella or excess policy. The insurance required under this paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance or reinsurance maintained by the District and the "other insurance" provision must be amended in accordance with this requirement and principles of vertical exhaustion. Construction Projects Controlled by the District. For construction projects controlled by the District, the District will procure the following policies with the District listed as the first named insured. Since the District will control the placement of the policies, the District should not contractually bind itself to secure coverage broader than the minimum that satisfy the interests of the Contractor. Builders Risk. The District shall purchase and maintain builders risk insurance at 100% replacement cost upon the entire Work at the site and portions of the Work stored off the site with the District's approval, and contingent transit coverage for portions of the Work in transit. This insurance shall include the interests of the District, the Contractor and the Subcontractors in the Work and shall insure against all risk of physical damage subject to standard exclusions. Losses not covered by the District's insurance or Contractor's insurance shall be borne pursuant to the provisions of the Contract. The builders risk policy will have a deductible of not more than $10,000 Losses within the deductible will be paid by the Contractor or the responsible Subcontractor. If not covered under the builders risk insurance or otherwise provided in the Contract documents, the Contractor shall effect and maintain similar property insurance on portions of the Work stored off the site or in transit. A waiver of subrogation for the Builders' Risk insurance applies to Turner Construction Company and its subcontractors at all tiers.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
274	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.2.0	The insurance required herein shall be primary to and will not seek contribution from any other insurance, reinsurance or self-insurance including any deductible or retention, maintained by the Government of the District of Columbia.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
275	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.3.0	The Construction Manager shall carry all required insurance until all contract work is accepted by the District of Columbia, and shall carry listed coverages for ten years for construction projects following final acceptance of the work performed under this contract and two years for non-construction related contracts.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
276	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.4.0	These are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE CONSTRUCTION MANAGER'S LIABILITY UNDER THIS CONTRACT.**	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
277	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.5.0	Construction Manager and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
278	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.6.0	The District shall not make any separate measure or payment for the cost of insurance and bonds.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1	9.1.6; 9.1.8; 11.1.6; 11.2; 11.3; Exhibit J 3.D.2, 9.0, 19.0	See 11.1.1
279	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.7.0	The Construction Manager shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event of coverage and / or limit changes or if the policy is canceled prior to the expiration date shown on the certificate. The Construction Manager shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium. The Construction Manager will also provide the CO with an updated Certificate of Insurance should its insurance coverages renew during the contract.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
280	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.8.0	The Construction Manager shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted to: The Government of the District of Columbia George G. Lewis Associate Director/C&P Department of General Services 2000 14th St, NW - 8th Floor Washington, DC 20009 (202) 478-5727 george.lewis@dc.gov The CO may request and the Construction Manager shall promptly deliver updated certificates of insurance, endorsements indicating the required coverages, and/or certified copies of the insurance policies. If the insurance initially obtained by the Construction Manager expires prior to completion of the contract, renewal certificates of insurance and additional insured and other endorsements shall be furnished to the CO prior to the date of expiration of all such initial insurance. For all coverage required to be maintained after completion, an additional certificate of insurance evidencing such coverage shall be submitted to the CO on an annual basis as the coverage is renewed (or	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
281	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.9.0	The Construction Manager agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out of work performed by the Construction Manager, its agents, employees, servants or subcontractors in the performance of this contract.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
282	Main Agreement	Insurance and Bonds	Insurance Required by the Project	11	1.10.0	All Construction Manager's and its subcontractors' insurance required in connection with this contract shall be written by insurance companies with an A.M. Best Insurance Guide rating of at least A- VII (or the equivalent by any other rating agency) and licensed in the in the District.	Insurance	GC is not properly insured per the stipulations in the contract	Moderate	Certificate of Insurance(s)	See 11.1.1		See 11.1.1
283	Main Agreement	Insurance and Bonds	Performance Bond and Payment Bonds	11	2.0.0	The Construction Manager shall upon execution of the GMP Amendment provide to the Department a payment bond and performance bond, each with a penal sum equal to the full value of the GMP. Upon execution of this Agreement, such bonds shall be provided with penal value equal to the Interim NTE. Such bonds shall remain in full force and effect until Final Completion is achieved and the Department shall be able to draw upon such bond regardless of the amount paid by the Department to the Construction Manager, even if such amount exceeds the penal value of such bond. Unless otherwise directed by the Department, the Construction Manager shall require all Subcontractors whose Subcontract prices exceed One Hundred Thousand Dollars ($100,000) to provide payment and performance bonds or to be enrolled in subcontractor default insurance as the Construction Manager chooses, with a penal sum equal to one hundred percent (100%) of the subcontract price. Further, the Construction Manager must deliver to the Contracting Officer copies of its subcontractor's Agreements of Indemnity in the event subcontractor bonds are obtained. All bonds must be in a form acceptable to the Department, its lenders or bond trustee, and issued by a surety authorized to do business in the District of Columbia and bonding company listed on the United States Department of Treasury's Listing of Approved Sureties. All subcontractors' bonds must include a dual oblige rider, naming the Construction Manager and the Department as dual obliges. If the Guaranteed Maximum Price is increased pursuant to the terms of the Agreement, the Department may require that the amount of the bonds be increased in the amount of one hundred percent (100%) of the increase, and the Construction Manager shall promptly comply. The Construction Manager shall furnish a copy of its bonds to any potential beneficiary of the bonds, or permit that person or company to make a copy. If the bonds provided become unacceptable to the Department, the Construction Manager shall promptly provide substitute security acceptable to the Department. If the Construction Manager intends to exercise its rights as dual oblige under any trade Subcontractor's bond, it shall first give the Department twenty (20) days written notice, so that the Department may lodge any objection it may reasonably have to the proposed action.	Bonds	GC is not appropriately bonded	Moderate	1. Payment Bond 2. See pay application testing at 10.1	Verify that GC's bonds and those of its subcontractors meet the specifications in the contract	9.1.6; 9.1.8; 11.1.6; 11.2; 11.3; Exhibit J 3.D.2, 9.0, 19.0	DGS is collecting evidence for contracts >$100K included in subguard policy

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
284	Main Agreement	Insurance and Bonds	Insurance and Bond Rates	11	3.0.0	The Construction Manager's Insurance and Bond Rates include the use of a Contractor Controlled Insurance Program (CCIP) and Subcontractor Default Insurance (SDI), at the following rates: SDI 1.50% of Direct Work CCIP 2.25% of Volume P&P Bonds .95% of Volume Volume is defined as the sum of Direct Work, General Conditions, Insurance, Surety Bond, Contingency and Fee. Direct Work is defined as Volume less General Conditions, Insurance, Surety Bond, Contingency and Fee. Cost of Work is defined as Volume less Fee. Insurance and premium rates are stipulated and audit provisions extend only to confirming the stipulated rate multiplier as established above, have been applied properly to the total project Volume or Direct Work, as applicable.	Bonds	Bond cost is not billed in accordance with rates defined	High	Pay application	See 9.1	9.1.6; 9.1.8; 11.1.6; 11.2; 11.3; Exhibit J 3.D.2, 9.0, 19.0	See 9.1
285	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.1.0	Thirty-Five percent (35%) of the Contract Work must be awarded to entities that are certified as small business enterprises (SBEs). For subcontracted work, pass through entities will not count toward this goal. In order to count toward the subcontracting requirement, the SBE must perform at least thirty five percent (35%) of the work that is being counted toward the goal with its own forces. The LSDBE certification shall be, in each case, as of the effective date of the applicable subcontract. Supply agreements with material suppliers shall be counted toward meeting this goal. The Construction Manager has developed a Subcontracting Plan that is attached hereto as **Exhibit D**. The Construction Manager shall comply with the terms of the SBE Subcontracting Plan in making purchases and administering its subcontracts and supply agreements.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	Subcontracting plan (Exhibit D)	1. Review the subcontracting plan to confirm that t he GC has a realistic path to meeting the LSDBE contracting goals 2. Review payment history to identified LSDBE firms to confirm that GC is either meeting its goals or has a realistic path to meeting them 3. Verify that subcontractors are certified as required by the prime contract 4. Confirm that any deviation from the contractual goals are documented and approved by the Program office		Program office reviews the subcontracting plan for compliance with contract goals. It is requested and reviewed concurrent with the rest of the GC's proposal. The Department only signs the contract with an acceptable subcontracting plan in place
286	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.0	Mandatory Subcontracting Plan and Requirements.	N/A	N/A	N/A	N/A	N/A		N/A
287	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.1	Unless the Director of the Department of Small and Local Business Development (DSLBD) has approved a waiver in writing in accordance with D.C. Official Code § 2-218.51, for all contracts in excess of $250,000, for all contracts in excess of $250,000, at least 35% of the dollar volume of the contract shall be subcontracted to SBEs.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	Subcontracting plan (Exhibit D)	See 12.1.1		See 12.1.1
288	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.2	If there are insufficient SBEs to completely fulfill the requirement of paragraph 12.1.2.1, then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any qualified certified business enterprises (CBEs); provided, however, that all reasonable efforts shall be made to ensure that SBEs are significant participants in the overall subcontracting work.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	See 12.1.1	See 12.1.1		See 12.1.1
289	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.3	A prime contractor that is certified by DSLBD as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of sections 12.1.2.1 and 12.1.2.2.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	See 12.1.1	See 12.1.1		See 12.1.1
290	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.4	Except as provided in 12.1.2.5 and 12.1.2.6, a prime contractor that is a CBE and has been granted a proposal preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 35% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A CBE prime contractor that performs less than 35% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	See 12.1.1	See 12.1.1		See 12.1.1
291	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.5	A prime contractor that is a certified joint venture and has been granted a proposal preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A certified joint venture prime contractor that performs less than 50% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	N/A	N/A		N/A
292	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.6	Each CBE utilized to meet these subcontracting requirements shall perform at least 35% of its contracting effort with its own organization and resources.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	See 12.1.1	See 12.1.1		See 12.1.1
293	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.7	A prime contractor that is a CBE and has been granted a proposal preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the on-site work with its own organization and resources if the contract is $1 million or less.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	See 12.1.1	See 12.1.1		See 12.1.1
294	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.8	If the Construction Manager is required by law to subcontract under this Contract, it must submit a Subcontracting Plan in accordance with D.C. Official Code § 2-218.46 (d). The Subcontracting Plan may only be amended with the prior written approval of the Contracting Officer (CO) and Director of DSLBD. Any reduction in the dollar volume of the subcontracted portion resulting from an amendment of the Subcontracting Plan shall inure to the benefit of the District. The Subcontracting Plan shall include the following: The name and address of each subcontractor; A current certification number of the small or certified business enterprise; The scope of work to be performed by each subcontractor; and The price that the prime contractor will pay each subcontractor.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	See 12.1.1	See 12.1.1		See 12.1.1
295	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.9	Within twenty-one (21) days of the date any subcontract is executed, the Construction Manager shall provide fully executed copies of all subcontracts identified in the subcontracting plan to the Contracting Officer (CO), City Administrator (CA), District of Columbia Auditor and the Director of DSLBD.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	Executed Subcontracts	Validate management received subcontracts in a timely manner		Management review of subcontracts
296	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.10	If the Construction Manager has a subcontracting plan required by law for this contract, the Contractor shall submit a quarterly report to the CO, CA, District of Columbia Auditor and the Director of DSLBD. The quarterly report shall include the following information for each subcontract identified in the subcontracting plan: (A) The price that the prime contractor will pay each subcontractor under the subcontract; (B) A description of the goods procured or the services subcontracted for; (C) The amount paid by the prime contractor under the subcontract; and (D) A copy of the fully executed subcontract, if it was not provided with an earlier quarterly report. If the fully executed subcontract is not provided with the quarterly report, the prime contractor will not receive credit toward its subcontracting requirements for that subcontract.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	Quarterly subcontracting reports	Validate data in report against contracting and vendor payment records		Quarterly subcontracting reports sent to the CO
297	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.11	Upon at least 30-days written notice provided by DSLBD, the Construction Manager shall meet annually with the CO, CA, District of Columbia Auditor and the Director of DSLBD to provide an update on its subcontracting plan.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	Evidence of annual meeting	Obtain and validate documentation of annual meeting		Meeting (as described), minutes, memo, other
298	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.12	The Construction Manager shall provide written notice to the DSLBD and the District of Columbia Auditor upon commencement of the contract and when the contract is completed.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	Evidence of notice to the DSLBD and DC Auditor	Obtain and validate documentation of notice		Notice of commencement required of the GC
299	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.13	A contractor shall be deemed to have breached a subcontracting plan required by law, if the contractor (i) fails to submit subcontracting plan monitoring or compliance reports or other required subcontracting information in a reasonably timely manner; (ii) submits a monitoring or compliance report or other required subcontracting information containing a materially false statement; or (iii) fails to meet its subcontracting requirements. A contractor that is found to have breached its subcontracting plan for utilization of CBEs in the performance of a contract shall be subject to the imposition of penalties, including monetary fines in accordance with D.C. Official Code § 2-218.63.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	See 12.1.2.10	See 12.1.2.10		See 12.1.2.10
300	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.14	If the CO determines the Contractor's failure to be a material breach of the contract, the CO shall have cause to terminate the contract under the default provisions in clause 8 of the SCP, Default.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	N/A	N/A		N/A
301	Main Agreement	Economic Inclusion Requirements	LSDBE Utilization	12	1.2.15	Neither the Construction Manager nor a Subcontractor may remove a Subcontractor or tier-Subcontractor if such Subcontractor or tier-Subcontractor is certified as an LSDBE company unless the Department approves of such removal, in writing. The Department may condition its approval upon the Construction Manager developing a plan that is, in the Department's sole and absolute judgment, adequate to maintain the level of LSDBE participation on the Project.	Subcontractors	GC does not meet the LSDBE sourcing goals of the contract	Moderate	Executed Subcontracts and approval by the Department of removing subcontractor	See 12.1.1		See 12.1.1
302	Main Agreement	Economic Inclusion Requirements	Equal Employment Opportunity and Hiring of District Residents	12	2.1.0	The Construction Manager shall comply with applicable laws, regulations and special requirements of the Contract Documents regarding equal employment opportunity and affirmative action programs. In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as Exhibit Q. A contract award cannot be made to any contractor that has not satisfied the equal employment requirements.	Labor	CM does not meet labor force regulation	Moderate	Completed Equal Employment Opportunity Information Report (Exhibit Q)	Validate the completed Equal Employment Opportunity Information Report		Award contract only upon completion of Equal Employment Opportunity Information Report
303	Main Agreement	Economic Inclusion Requirements	Equal Employment Opportunity and Hiring of District Residents	12	2.2.0	The Construction Manager shall ensure that at least fifty-one percent (51%) of the Construction Manager's team and every subconsultant's and subcontractor's employees hired after the execution of the Agreement, or after such subconsultant or subcontractor enters into a contract with the Construction Manager, to work on the Project shall be residents of the District of Columbia. This percentage shall be applied in the aggregate, and not trade by trade. In addition, the Construction Manager shall use commercially reasonable best efforts to comply with the workforce percentage goals established by the recently adopted amendments to the First Source Employment Agreement Act of 1984 (D.C. Code §§ 2-219.01 et seq.) and any implementing regulations, including, but not limited to the following requirements: i. At least 20% of journey worker hours by trade shall be performed by District residents; ii. At least 60% of apprentice hours by trade shall be performed by District residents iii. At least 51% of the skilled laborer hours by trade shall be performed by District residents; and iv. At least 70% of common laborer hours shall be performed by District residents.	Labor	CM does not meet labor force requirements of the contract	Moderate	EE listing, driver's license/ evidence of resident address, evidence of subcontractor employee pay stubs	1. Document management's controls over monitoring compliance 2. Perform testing to validate that EEs are residents in DC 3. Perform testing to validate EEs are actual employees of the subcontractor claiming them 4. Perform analysis to validate that at least 35% of apprentice hours are worked by DC residents, as required by Article 12.2.4		Regular certified payroll reporting Monitoring of local resident employment requirements - 51% new employee requirement - 35% requirement - First Source Agreement - Apprenticeship Act of 1946
304	Main Agreement	Economic Inclusion Requirements	Equal Employment Opportunity and Hiring of District Residents	12	2.3.0	[Intentionally Omitted]	N/A	N/A	N/A	N/A	N/A		N/A
305	Main Agreement	Economic Inclusion Requirements	Equal Employment Opportunity and Hiring of District Residents	12	2.4.0	Thirty five percent (35%) of all apprentice hours worked on the Project shall be worked by District residents.	Labor	CM does not meet labor force requirements of the contract	Moderate	See 12.2.2	See 12.2.2	12.2.2	See 12.2.2

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
306	Main Agreement	Economic Inclusion Requirements	Economic Inclusion Reporting Requirements	12	3.1.0	Upon execution of the Agreement, the Construction Manager and all its member firms, if any, and each of its Subcontractors shall submit to the Department a list of current employees and apprentices that will be assigned to the Agreement, the date they were hired and whether or not they live in the District of Columbia.	Subcontractors	GC does not meet labor force requirements of the contract	Moderate	See 12.2.2	See 12.2.2	12.2.2	See 12.2.2
307	Main Agreement	Economic Inclusion Requirements	Economic Inclusion Reporting Requirements	12	3.2.0	The Construction Manager and its constituent entities shall comply with subchapter X of Chapter II Title 2, and subchapter II of Chapter 11 of Title 1 of the D.C. Code, and all successor acts thereto and the rules and regulations promulgated thereunder. The Construction Manager and all member firms and Subcontractors shall execute a First Source Agreement with the District of Columbia Department of Employment Services ("DOES") prior to beginning Work at the Project site.	Subcontractors	GC does not meet subcontracting requirements of the contract	Moderate	First Source Agreement signed by GC and the subcontractors	Verify that GC and subcontractors signed the First Source Agreement		Department requires First Source Agreement prior to approving work performance
308	Main Agreement	Economic Inclusion Requirements	Economic Inclusion Reporting Requirements	12	3.3.0	The Construction Manager shall maintain detailed records relating to the general hiring of District of Columbia and community residents.	Labor	CM does not meet labor force and subcontracting requirements of the contract	Moderate	See 12.2.2	See 12.2.2	12.2.2	See 12.2.2
309	Main Agreement	Economic Inclusion Requirements	Economic Inclusion Reporting Requirements	12	3.4.0	The Construction Manager shall be responsible for: (i) including the provisions of Section 11.3 in all subcontracts; (ii) collecting the information required in Section 11.3 from its Subcontractors; and (iii) providing the information collected from its Subcontractors in the reports required to be submitted by the Construction Manager pursuant to Section 11.3.	Subcontractors	GC does not meet subcontracting requirements of the contract	Moderate	Subcontract agreements	Review subcontracts to verify that they contain necessary provisions		Review of GC's subcontracts prior to approval
310	Main Agreement	Economic Inclusion Requirements	Economic Inclusion Reporting Requirements	12	3.5.0	The Construction Manager agrees to comply with the requirements of the Apprenticeship Act of 1946, D.C. Code §§ 32-1431, *et seq*., as amended.	Labor	CM does not meet labor force requirements of the contract	Moderate	See 12.2.2	See 12.2.2	12.2.2	See 12.2.2
311	Main Agreement	Liquidated Damages	Delay in Submission of Deliverables	13	1.0.0	Subject to the terms set forth in Section 4.12, if the Construction Manager fails to provide any of the deliverables set forth in Exhibit C, the Construction Manager shall pay to the Department liquidated damages in the amount set forth in the Project Information Section of this Agreement for each such deliverable that is not timely submitted.	Schedule	GC does not deliver per the agreed timeline	Low	List per Exhibit C	Obtain documents and validate management received		Refer to earlier section 5.7
312	Main Agreement	Liquidated Damages	Delay in Submission of Deliverables	13	2.0.0	Subject to the terms of Section 5.7, in each instance where the Construction Manager removes or reassigns one of the key personnel listed in Exhibit K as being subject to liquidated damages, other than (a) for reasons where such personnel become unavailable due to death, disability or separation from the employment of the Construction Manager or any affiliate of the Construction Manager or any affiliate of the Construction Manager, or (b) with the prior written consent of the Department, then the Construction Manager shall pay to the Department the amount set forth in the Project Information Section of this Agreement as liquidated damages and not a penalty, to reimburse the Department for its administrative costs arising from the Construction Manager's failure to provide the Key Personnel. The foregoing liquidated damages amount shall not bar recovery of any other damages, costs or expenses other than the Department's internal administrative costs.	Schedule	GC removes key personnel without Program approval	Low	See 9.2.1	See 9.2.1	9.2.1	See 9.2.1
313	Main Agreement	Liquidated Damages	Delay in Submission of Deliverables	13	3.0.0	If the Construction Manager fails to achieve Substantial Completion of the Project by the Substantial Completion Date, the Parties acknowledge and agree that the actual damage to the Department for the delay will be impossible to determine, and in lieu thereof, the Construction Manager shall pay to the Department, as fixed, agreed and liquidated delay damages in the amount set forth in the Project Information Section of this Agreement per day for each calendar day of delay for failure to meet the applicable Substantial Completion Date. The Construction Manager and the Department agree that the liquidated damages set forth in this Article do not constitute, and shall not be deemed, a penalty but represent a reasonable approximation of the damages to the Department associated with a delay in the Project and shall be the sole remedy for delay of any type. These damages shall not apply if the delay is the result of force majeure and the Construction Manager otherwise complies with the provisions set forth in the Standard Contract Provisions.	Schedule	N/A	N/A	N/A	N/A		N/A
314	Main Agreement	Liquidated Damages	Delay in Submission of Deliverables	13	4.0.0	In the event the Construction Manager achieves Substantial Completion of the Project prior to the Substantial Completion Date, the Construction Manager shall maintain the completed Project, at its own expense, until such time that the Department agrees to occupy and use the Project.	Schedule	N/A	N/A	N/A	N/A		N/A
315	Main Agreement	Miscellaneous Provisions	Drawings; Specifications	14	1.0.0	The Drawings, Specifications and other documents prepared by the Architect/Engineer and copies thereof furnished to the Construction Manager, are for use solely with respect to this Project. They are not to be used by the Construction Manager, Subcontractors, Sub-subcontractors or suppliers on other projects, or for additions to this Project outside the scope of the Work, without the specific written consent of the Department, and the Architect/Engineer. The referenced Drawing, Specifications and other documents shall become the property of the Department.	N/A	N/A	N/A	N/A	N/A		N/A
316	Main Agreement	Miscellaneous Provisions	Assignment	14	2.0.0	The Department and Construction Manager respectively bind themselves, their partners, members, joint ventures, constituent entities, successors, assigns and legal representative to the other party hereto and to partners, members, joint ventures, constituent entities, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Agreement. Neither party to the Agreement shall assign the Agreement or its rights and obligations under the Agreement, without written consent of the other party. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Agreement.	N/A	N/A	N/A	N/A	N/A		N/A
317	Main Agreement	Miscellaneous Provisions	Buy American Art Provision	14	3.0.0	The Construction Manager shall comply with the provisions of the Buy American Act (41 U.S.C. § 10a), including, but not limited to, the purchase of steel.	Pay Application	CM does not comply with the sourcing requirements of the Buy America Act	Low	TBD - pending discussions with management GMP Exhibit - Buy America Waivers	1. Document Department's monitoring efforts for compliance with Buy America Act 2. Further testing TBD		Continuous monitoring for compliance with Buy America Act
318	Main Agreement	Miscellaneous Provisions	Buy American Art Provision	14	3.1.0	In accordance with the Buy American Act (41 U.S.C. § lOa-lOd), and Executive Order 10582. December 17, 1954 (3 CFR, 1954-58 Comp., p. 230), as amended by Executive Order 11051, September 27,1962 (3 CFR, 1059—63 Comp., p. 635), the Construction Manager agrees that only domestic construction material will be used by the Construction Manager, subcontractors, material men and suppliers in the performance of the Agreement, except for non-domestic material listed in the Agreement.	Pay Application	CM does not comply with the sourcing requirements of the Buy America Act	Low	See 14.3	See 14.3	14.3	See 14.3.
319	Main Agreement	Miscellaneous Provisions	Buy American Art Provision	14	3.2.0	"Construction material" means any article, material or supply brought to the construction site for incorporation in the building or work. An unmanufactured construction material is a "domestic construction material" if it has been mined or produced in the United States. A manufactured construction material is a "domestic construction material" if it has been manufactured in the United States and if the cost of its components which have been mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. "Component" means any article, material, or supply directly incorporated in a construction material.	Pay Application	CM does not comply with the sourcing requirements of the Buy America Act	Low	See 14.3	See 14.3	14.3	See 14.3.
320	Main Agreement	Miscellaneous Provisions	Buy American Art Provision	14	3.3.0	A component shall be considered to have been "mined, produced, or manufactured in the United States" regardless of its source, in fact, if the article, material or supply in which it is incorporated was manufactured in the United States and the component is of a class or kind determined by the Government to be not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.	Pay Application	CM does not comply with the sourcing requirements of the Buy America Act	Low	See 14.3	See 14.3	14.3	See 14.3.
321	Main Agreement	Miscellaneous Provisions	Buy American Art Provision	14	3.4.0	When steel materials are used in a project a minimal use of foreign steel is permitted. The cost of such materials cannot exceed on-tenth of one percent of the total project cost, or $2,500,000, whichever is greater.	Pay Application	CM does not comply with the sourcing requirements of the Buy America Act	Low	See 14.3	See 14.3	14.3	See 14.3.
322	Main Agreement	Miscellaneous Provisions	Davis-Bacon Act Provision	14	4.0.0	The Construction Manager agrees that the construction work performed under this Agreement shall be subject to the Davis-Bacon Act (40 U.S.C. §§ 276a-276a-7). The wage rates applicable to this Project are attached as Exhibit (1. The Construction Manager further agrees that it and all of its subcontractors shall comply with the regulations implementing the Davis-Bacon Act and such regulations are hereby incorporated by reference.	Labor	CM does not paying the prevailing wage as required by Davis-Bacon	High	Certified Payroll Records DBA Wage Determination Project site access logs	1. Obtain understanding of Departments monitoring efforts for compliance with DBA 2. Validate that certified payroll records are provided with pay application packets 3. Conduct testing to validate that payments to employees are compliant with Wage Determination		Understand management's control process (Interviews, jobsite walks, audits?)
323	Main Agreement	Miscellaneous Provisions	Davis-Bacon Act Provision	14	4.1.1	The District will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code §2-221.01 et seq., for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before: a) the 3rd day after the required payment date for meat or a meat product; b) the 5th day after the required payment date for an agricultural commodity; or c) the 15th day after the required payment date for any other item.	Pay Application	Payment to CM is not timely	Moderate	See 10.1	See 10.1	10.1	See 10.1
324	Main Agreement	Miscellaneous Provisions	Davis-Bacon Act Provision	14	4.1.2	Any amount of an interest penalty which remains unpaid at the end of any 30- day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.	Pay Application	Payment to CM is not timely	Moderate	See 10.1	See 10.1	10.1	See 10.1
325	Main Agreement	Miscellaneous Provisions	Davis-Bacon Act Provision	14	4.2.1	The Contractor must take one of the following actions within seven (7) days of receipt of any amount paid to the Contractor by the District for work performed by any subcontractor under this contract: a) Pay the subcontractor for the proportionate share of the total payment received from the District that is attributable to the subcontractor for work performed under the contract; or b) Notify the District and the subcontractor, in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.	Subcontractors	GC is not paying its subcontractors in a timely manner	High	Dated proof of payment from GC to subcontractors and invoice backup	Verify that subcontractors are paid within the timeframe stipulated by the contract, and that they are paid the proper interest amount if GC payments are late		Periodically monitor GC's subcontracting practices to ensure timely payment. Monitor subcontractor activity in payment applications
326	Main Agreement	Miscellaneous Provisions	Davis-Bacon Act Provision	14	4.2.2	The Contractor must pay any subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before: a) the 3rd day after the required payment date for meat or a meat product; b) the 5th day after the required payment date for an agricultural commodity; or c) the 15th day after the required payment date for any other item.	Subcontractors	GC is not paying its subcontractors in a timely manner	High	See 14.4.2.1	See 14.4.2.1		See 14.4.2.1
327	Main Agreement	Miscellaneous Provisions	Davis-Bacon Act Provision	14	4.2.3	Any amount of an interest penalty which remains unpaid by the Contractor at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.	Subcontractors	GC is not paying its subcontractors in a timely manner	High	See 14.4.2.1	See 14.4.2.1		See 14.4.2.1
328	Main Agreement	Miscellaneous Provisions	Davis-Bacon Act Provision	14	4.2.4	A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District of Columbia is a party. The District of Columbia may not be interpleaded in any judicial or administrative proceeding involving such a dispute.	Subcontractors	GC is not paying its subcontractors in a timely manner	High	See 14.4.2.1	See 14.4.2.1		See 14.4.2.1
329	Main Agreement	Miscellaneous Provisions	Davis-Bacon Act Provision	14	4.3.1	The Contractor shall include in each subcontract under this contract a provision requiring the subcontractor to include in its contract(s) with any lower-tier subcontractor or supplier the payment and interest clauses required under 14.4.2.1 and 14.4.2.2 hereinabove and paragraphs (1) and (2) of D.C. Official Code §2-221.02(d)	Subcontractors	GC does not have all necessary provisions flowed down to the subcontractors	Moderate	Subcontracts (see above, article 5)	Subcontracts (see above, article 5)		Subcontracts (see above, article 5)

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
330	Main Agreement	Miscellaneous Provisions	Davis-Bacon Act Provision	14	4.4.1	The Department and the Contractor are prohibited from requiring a prime contractor or a subcontractor to undertake any work that is determined to be beyond the original scope of the prime contractor's or a subcontractor's contract or subcontract, including work under a District-issued change order, when the additional work increases the contract price beyond the not-to-exceed price or negotiated maximum price of the underlying contract, unless the Contracting Officer: (i) Agrees with the prime contractor and, if applicable, the subcontractor on a price for the additional work; (ii) Obtains a certification from the Chief Financial Officer that there are sufficient funds to compensate the prime contractor and, if applicable, the subcontractor for the additional work; (iii) Has made a written, binding commitment with the prime contractor to pay for the additional work within 30 days after the prime contractor submits a proper invoice for the additional work to the contracting officer; and (iv) Gives written notice of the funding certification from the Chief Financial Officer to the prime contractor;	Change Order	Performance of work that is out of scope	Low	See 17.2	See 17.2	17.2	Regular meetings between Program and Construction Manager; review of pay applications
331	Main Agreement	Miscellaneous Provisions	Davis-Bacon Act Provision	14	4.4.2	The Contractor is required to include in its subcontracts a clause that requires the prime contractor to: (i) Within 5 business days of receipt of the notice required under subparagraph (A)(iv) of this paragraph, provide the subcontractor with notice of the approved amount to be paid to the subcontractor based on the portion of the additional work to be completed by the subcontractor; (ii) Pay the subcontractor any undisputed amount to which the subcontractor is entitled for any additional work within 10 days of receipt of payment for the additional work from the District; and (iii) If the prime contractor withholds payment from a subcontractor, notify the subcontractor in writing and state the reason why payment is being withheld and provide a copy of the notice to the contracting officer.	Subcontractors	GC does not have all necessary provisions flowed down to the subcontractors	Moderate	Subcontracts (see above, article 5)	Subcontracts (see above, article 5)		Subcontracts (see above, article 5)
332	Main Agreement	Miscellaneous Provisions	Davis-Bacon Act Provision	14	4.4.3	The Department, Contractor, prime contractor, or a subcontractor are prohibited from declaring another party to the contract to be in default or assessing, claiming, or pursuing damages for delays in the completion of the construction due to the inability of the parties to agree on a price for the additional work.	N/A	N/A	N/A	N/A	N/A		N/A
333	Main Agreement	Miscellaneous Provisions	Contract Work Hours And Safety Standards Act Provision	14	5.0.0	The Construction Manager agrees that the applicable work performed under this Agreement shall be subject to the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333).	N/A	N/A	N/A	N/A	N/A		N/A
334	Main Agreement	Miscellaneous Provisions	False Claims Act	14	6.0.0	Construction Manager shall be governed by all laws and regulations prohibiting false or fraudulent statements and claims made to DC government, including the prescriptions set forth in District of Columbia Code §22-2514 and §§2-381.01 et seq. In the event that it is discovered that the Construction Manager has made a false, fraudulent or unsupported statement or claim to the Department, the Department may terminate this Agreement without liability.	N/A	N/A	N/A	N/A	N/A		N/A
335	Main Agreement	Miscellaneous Provisions	Interpretation of Contract	14	7.0.0	All of the documents comprising the Agreement should be read as complementary, so that what is called for by one is called for by all. In the event of a conflict between the Contract Documents, Section 1.7 shall govern in resolving the order of precedence. Ambiguities (a conflict within a single Contract Document) shall be construed in favor of a broader scope of Work for the Construction Manager, as the intent of the Agreement is, with specific identified exceptions, to require the Construction Manager to assume entire responsibility for construction of the Project.	N/A	N/A	N/A	N/A	N/A		N/A
336	Main Agreement	Miscellaneous Provisions	Independent Contractor	14	8.0.0	In carrying out all its obligations under the Agreement, the Construction Manager shall be acting as an independent contractor, and not as an employee or agent of the Department, or Joint Venture or partner with the Department. The Construction Manager shall have exclusive authority to manage, direct, and control the Work, and shall be responsible for all construction means, methods, techniques, sequences, and procedures, as well as for the Project safety.	N/A	N/A	N/A	N/A	N/A		N/A
337	Main Agreement	Miscellaneous Provisions	No Third-Party Beneficiary Rights	14	9.0.0	Nothing in this Agreement shall be construed as creating third-party beneficiary rights in any person or entity, except as otherwise expressly provided in this Agreement.	N/A	N/A	N/A	N/A	N/A		N/A
338	Main Agreement	Miscellaneous Provisions	Media Releases	14	10.0.0	Neither the Construction Manager, its employees, agents or Subcontractors or material suppliers shall make any press release or similar media release related to the Project unless such press release have been discussed with the Department prior to its issuance.	N/A	N/A	N/A	N/A	N/A		N/A
339	Main Agreement	Miscellaneous Provisions	Construction	14	11.0.0	This Agreement shall be construed fairly as to all Parties and not in favor of or against any party, regardless of which party prepared the Agreement.	N/A	N/A	N/A	N/A	N/A		N/A
340	Main Agreement	Miscellaneous Provisions	Notices	14	12.0.0	All notices or communications required or permitted under the Agreement shall be in writing and shall be hand delivered or sent by telecopier or by recognized overnight carrier or by other means (electronic) to the intended recipient at the address stated below, or to such other address as the recipient may have designated in writing. Any such notice or communication shall be deemed delivered as follows: if hand delivered, on the day so delivered, if sent by telecopier, on confirmation of successful transmission, and if sent by recognized overnight carrier, the next business day. If to the Department: If to the Construction Manager: Kevin R. Sharkey Vice President & General Manager Turner Construction Company 11413 Isaac Newton Square Reston, VA 20190 ksharkey @tcco.com George Lewis Associate Director and Chief Contracting Officer Department of General Services 2000 14th Street, NW, 8th Floor Washington, DC 20009 george.lewis@dc.gov This Section shall be read as imposing minimum requirements for distribution of required contractual notices, and not as displacing distribution requirements with respect to design documents, construction submittals, periodic reports.	N/A	N/A	N/A	N/A	N/A		N/A
341	Main Agreement	Miscellaneous Provisions	Limitations	14	13.0.0	The Construction Manager agrees that any statute of limitations applicable to any claim or suit by the Department arising from this Agreement or its breach shall be controlled by applicable District of Columbia law.	N/A	N/A	N/A	N/A	N/A		N/A
342	Main Agreement	Miscellaneous Provisions	Survival	14	14.0.0	All agreements warranties, and representations of the Construction Manager contained in the Agreement or in any certificate or document furnished pursuant to the Agreement shall survive termination or expiration of the Agreement.	N/A	N/A	N/A	N/A	N/A		N/A
343	Main Agreement	Miscellaneous Provisions	No Waiver	14	15.0.0	If the Department waives any power, right, or remedy arising from the Agreement or any applicable law, the waiver shall not be deemed to be a waiver of the power, right, or remedy on the later recurrence of any similar events. No act, delay, or course of conduct by the Department shall be deemed to constitute the Department's waiver, which may be effected only by an express written waiver signed by the Department.	N/A	N/A	N/A	N/A	N/A		N/A
344	Main Agreement	Miscellaneous Provisions	Remedies Cumulative	14	16.0.0	Unless specifically provided to the contrary in the Agreement, all remedies set forth in the Agreement are cumulative and not exclusive of any other remedy the Department may have, including, without limitation, at law or in equity. The Department's rights and remedies will be exercised at its sole discretion, and shall not be regarded as conferring any obligation on the Department's to exercise those rights or remedies for the benefit of the Construction Manager or any other person or entity.	N/A	N/A	N/A	N/A	N/A		N/A
345	Main Agreement	Miscellaneous Provisions	Headings/ Captions	14	17.0.0	The headings or captions used in this Agreement or its table of contents are for convenience only and shall not be used in interpreting the Agreement.	N/A	N/A	N/A	N/A	N/A		N/A
346	Main Agreement	Miscellaneous Provisions	Entire Agreement; Modifications	14	18.0.0	The Agreement supersedes all contemporaneous or prior negotiations, representations, course of dealing, or agreements, either written or oral. No modifications to the Agreement shall be effective against the Department unless made in writing signed by both the Department and the Construction Manager, unless otherwise expressly provided to the contrary in the Agreement. Notwithstanding the foregoing, nothing herein shall be construed to limit the Department's ability to unilaterally modify the Agreement.	Other	Contradicting contract terms	Low	See 1.7	See 1.7	1.7, 14.18, Exhibit J 2.2 and 2.3, GMP 4.2	N/A
347	Main Agreement	Miscellaneous Provisions	Severability	14	19.0.0	In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and in lieu of each such invalid, illegal or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and enforceable; each part of this Agreement is intended to be severable.	N/A	N/A	N/A	N/A	N/A		N/A
348	Main Agreement	Miscellaneous Provisions	Anti-Deficiency Act	14	20.0.0	The Department's obligations and responsibilities under the terms of the Agreement and the Contract Documents are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1350, 1351, (ii) the D.C. Code 47-105, (iii) the District of Columbia Anti-Deficiency Act, D.C. Code §§ 47-355.01 - 355.08, as the foregoing statutes may be amended from time to time, and (iv) Section 446 of the District of Columbia Home Rule Act. Neither the Agreement nor any of the Contract Documents shall constitute an indebtedness of the Department, nor shall it constitute an obligation for which the Department is obligated to levy or pledge any form of taxation, or for which the Department has levied or pledged any form of taxation. IN ACCORDANCE WITH § 446 OF THE HOME RULE ACT, D.C. CODE § 1-204.46, NO DISTRICT OF COLUMBIA OFFICIAL IS AUTHORIZED TO OBLIGATE OR EXPEND ANY AMOUNT UNDER THE AGREEMENT OR CONTRACT DOCUMENTS UNLESS SUCH AMOUNT HAS BEEN APPROVED, IS LAWFULLY AVAILABLE AND APPROPRIATED BY ACT OF CONGRESS.	N/A	N/A	N/A	N/A	N/A		N/A
349	Main Agreement	Miscellaneous Provisions	Time	14	21.0.0	Time, if stated in a number of days, will be calendar days and thus include Saturdays, Sundays, and holidays, unless otherwise stated herein.	Schedule	N/A	N/A	N/A	N/A		N/A
350	Main Agreement	Termination or Suspension	Termination or Suspension	15	1.0.0	All terminations or suspensions arising out of or under this Agreement shall be in accordance with the terms of the Standard Contract Provisions.	N/A	N/A	N/A	N/A	N/A		N/A

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
351	Main Agreement	Termination or Suspension	Failure to Agree Upon GMP	15	2.0.0	The Department shall have the right to terminate this Agreement in the event that the Department and the Construction Manager are unable to agree upon a GMP for the Project and the Department shall have the right, but not the obligation, to assume any of the Construction Manager's trade subcontracts upon such terms and conditions as requested by the Department. The Department's decision to terminate under this Section shall be made in the Department's sole and absolute judgment and shall not be subject to review by any reviewing body, including, but not limited to, arbitrators appointed under this Agreement or any court of competent jurisdiction. Any such termination shall be deemed a termination for convenience.	N/A	N/A	N/A	N/A	N/A		N/A
352	Main Agreement	Termination or Suspension	Termination for Default	15	3.0.0	The Department may terminate the Agreement for default if the Construction Manager fails to perform any of its duties or obligations under the Agreement. In particular, but without limitation, the Department may terminate the Agreement if: .1 The Construction Manager fails to perform the Work diligently, in accordance with the Project Schedule or to make such progress in the Work as the Department reasonably believes is necessary to complete the Project within the time required by the Agreement; or .2 The Construction Manager fails to perform the Work in a good and workmanlike manner or to correct defects in the Work promptly upon notice by the Department; or .3 The Department reasonably determines that the Construction Manager has abandoned the Work, or has failed to pay laborers, mechanics, materialmen, Subcontractors or suppliers when payment is due; or .4 The Construction Manager becomes insolvent, makes an assignment for the benefit of creditors, files a voluntary petition under any chapter of the Bankruptcy Code or has an involuntary petition filed against it under any chapter of the Bankruptcy Code, or the Construction Manager has a receiver appointed, or files for dissolution or otherwise is dissolved; or .5 The Construction Manager fails to pay its debts in a timely manner or becomes insolvent, the Department reasonably determines that the Construction Manager does not have the financial ability to carry out its obligations under the Agreement and the Construction Manager fails to give the Department prompt and reasonable assurances of its ability to perform.	N/A	N/A	N/A	N/A	N/A		N/A
353	Main Agreement	Termination or Suspension	Termination for Default	15	3.1.0	The Department shall provide the Construction Manager with written notice of its intent to terminate the Agreement, under this Section 15.3.1 seven (7) calendar days before actually putting the termination into effect. If the Construction Manager has begun its corrective action and has made progress satisfactory to the Department within the seven days, the Department may so notify the Construction Manager and the termination will not take effect. Otherwise, the termination shall take effect after seven days without further notice or opportunity to cure.	N/A	N/A	N/A	N/A	N/A		N/A
354	Main Agreement	Termination or Suspension	Termination for Default	15	3.2.0	If the Department terminates the Agreement for default, the Department will have the right to take over the Work, to accept assignment of some or all Subcontracts or agreements with material suppliers, to take possession of the Project, to take and use all tools, equipment and supplies then being used in connection with the Work, and to finish the Project by whatever method it deems expedient, including accepting assignment of all outstanding Subcontracts and Supply Agreements.	N/A	N/A	N/A	N/A	N/A		N/A
355	Main Agreement	Termination or Suspension	Termination for Convenience	15	4.0.0	The Department may, upon seven (7) calendar days written notice to the Construction Manager, terminate the Contract in whole or specified part, for its convenience, for any reason whether the Construction Manager is in breach of contract or not. The notice of termination shall state the effective date of termination, the extent of the termination, and any specific instructions. The termination for convenience that arises out of or under this Agreement shall be in accordance with the terms of the Standard Contract Provisions.	N/A	N/A	N/A	N/A	N/A		N/A
356	Main Agreement	Termination or Suspension	Continued Responsibility after Termination	15	5.0.0	If the Construction Manager is terminated, for default, for Convenience or otherwise, the Construction Manager shall remain responsible for defects or non-conformities in all Work performed to the date of the termination.	N/A	N/A	N/A	N/A	N/A		N/A
357	Main Agreement	Other Conditions and Services	Other Conditions and Services	16	0.0.0	This Agreement and the rights and obligations of the Department and Construction Manager herein are subject to the approval of the Council for the District of Columbia.	Reporting/ Deliverable	Contract is not fully authorized	Low	Fully executed agreement	Confirm that the agreement was signed by both the GC and an individual with signature authority for the Council of the District of Columbia		Management review process, delegation of authority policy
358	Main Agreement	Changes in the Work	Changes Authorized	17	1.0.0	In accordance with the Standard Contract Provisions (Construction Contract), the Department may, without invalidating the Agreement, and without notice to or approval of any surety, order changes in the Work, including additions, deletions or modifications. Any such change must be conveyed by the Department to the Construction Manager via written Change Directive or Change Order.	Change Order	Contract changes are not made through the change order process	Moderate	See 17.2	See 17.2	17.2	See 17.2
359	Main Agreement	Changes in the Work	Executed Change Directive/ Change Order Required	17	2.0.0	Only a written Change Directive or Change Order, executed by the Department, may make changes to the Agreement. In particular, but without limitation, a written Change Directive or Change Order executed by the Department is the only means by which changes may be made to the Substantial or Final Completion Dates, the Preconstruction Fee, the Construction Management Fee, or the Guaranteed Maximum Price.	Change Order	Unauthorized payments are made due to inappropriate changes to the agreement.	Moderate	1. Executed change orders with records to support the actual costs incurred 2. Notice of change from Owner to CM 3. Any modifications to Exhibit I	1. Verify appropriate approvals by the Department, CM, and Architect (if applicable) 2. Review CO for mathematical accuracy, including: recalculate CO, OH&P, and GCs 3. Verify supporting invoice/ documentation are related to the project 4. Verify supporting invoice/ documentation date was within project scope period 5. Verify proper documentation was included to support the calculation of the CO. 6. CO support does not include any disallowed costs. 7. CM notified Department of cost or schedule impact within (10-20) days of receiving the change notice 8. Verify the change order was not issued for one of the disallowed reasons as outlined in article 5.11.2.1-5.11.2.4	2.6, 5.11, 8.6, Exhibit J 3 14.21	Establish a robust review of proposed change orders for appropriateness, including scope, reasonableness of costs, and mathematical accuracy
360	Main Agreement	Changes in the Work	Department-Initiated Changes	17	3.1.0	If the Department wishes to make a change in the Work or to accelerate the Work, it will execute and issue to the Construction Manager a written Change Directive, either directing the Construction Manager to proceed at once with the changed Work or directing it to not to proceed, but to inform the Department, in writing, of the amount, if any, by which the Construction Manager believes that Substantial or Final Completion Dates and/or the Guaranteed Maximum Price should be adjusted to take the Change Order or Change Directive into account.	Change Order	Unauthorized payments are made due to inappropriate changes to the agreement.	Moderate	See 17.2	See 17.2	17.2	See 17.2
361	Main Agreement	Changes in the Work	Department-Initiated Changes	17	3.2.0	Within ten (10) days of receiving a Change Directive, the Construction Manager shall provide the Department with a written statement of all changes in the Agreement, including, without limitation, any changes to the Substantial or Final Completion Dates or the Guaranteed Maximum Price to which it believes it is entitled as a result of the Change Directive. If additional time is sought, a schedule analysis supporting the requested extension should be included. The schedule analysis should include a written narrative explanation. If a change in the Guaranteed Maximum Price is sought (or if the Department has requested a deduct change), the statement should include a breakdown, by line item, of the estimated cost changes attributable to the proposed change. The Department may request, and the Construction Manager shall provide, further cost breakdowns, clarifications, documentation or back-up if the Department reasonably believes such additional information is needed to understand and evaluate the request. The additional information required may include cost and pricing data in accordance with the Department's regulations. The Construction Manager is not entitled to any markup on any kind of Change Orders except as authorized in Section 8.5.	Change Order	Unauthorized payments are made due to inappropriate changes to the agreement.	Moderate	See 17.2	See 17.2	17.2 14.21	See 17.2
362	Main Agreement	Changes in the Work	Department-Initiated Changes	17	3.3.0	If the Department has not yet directed the Construction Manager to proceed with the change described by a Change Directive, the Department may rescind it. If the Department wishes to proceed, or has already directed the Construction Manager to proceed, the Construction Manager shall immediately proceed with the changed Work and, the Department and the Construction Manager shall use their good faith best efforts to reach an agreement upon the modifications to the Substantial or Final Completion Dates, and/or the Guaranteed Maximum Price that are justified by the Change Directive. If the Department and the Construction Manager reach agreement, the agreement shall be set forth in a Change Order and the Construction Manager shall also execute it, at which point it will become binding on both Parties.	Change Order	Unauthorized payments are made due to inappropriate changes to the agreement.	Moderate	See 17.2	See 17.2	17.2	See 17.2
363	Main Agreement	Changes in the Work	Department-Initiated Changes	17	3.4.0	If the parties fail to reach an agreement within sixty (60) days after the Department receives the Construction Manager's detailed statement pursuant to Section 17.3.2, and such other documentation as the department may request, the Construction Manager may assert a claim in accordance with the Agreement. In such a case, and subject to adjustment via the claims and disputes process, the Department shall unilaterally grant the Construction Manager such adjustments, if any, to the Substantial or Final Completion Dates, the Guaranteed Maximum Price, and/or the Preconstruction or Construction Management Fee as the Department has judged to be appropriate.	Change Order	The parties cannot agreement within a reasonable amount of time and the CM is automatically granted the requested adjustments	Low	See 17.2	See 17.2	17.2 14.21	See 17.2
364	Main Agreement	Changes in the Work	Notice of Change Event	17	4.0.0	The Construction Manager must give the Department written notice of any Change Event within ten (10) calendar days of the date on which the Construction Manager knew, or reasonably should have known, of the Change Event. To the extent available, the notice must state the nature of the Change Event and describe, generally, all changes in the Agreement to which the Construction Manager believes it is entitled. Such notice is an express condition precedent to any claim or request for adjustment to the Substantial or Final Completion Dates, or the Guaranteed Maximum Price arising from the Change Event and, if the notice is not given within the required time, the Construction Manager will have waived the right to any adjustment to the Substantial or Final Completion Dates, or the Guaranteed Maximum Price arising from the Change Event.	Change Order	The CM requests that changes be made to the agreement for events that happened in the far past. (How do I say that the risk is that they will encounter a problem for a reason that is not approved but then uses an event in the past to justify a change in the present)	Low	See 17.2	See 17.2	17.2 14.21	Review change orders for appropriate/properly reported change events.
365	Main Agreement	Changes in the Work	Detailed Change Request	17	5.0.0	Within twenty (20) days after giving notice of a Change Event, the Construction Manager shall submit a written Change Request to the Department describing, in reasonable detail, all adjustments it seeks to the Substantial or Final Completion Dates or the Guaranteed Maximum Price as a result of the Change Event. The Change Request shall include the same information as described in Section 17.3 with respect to any Agreement changes the Construction Manager seeks due to the Change Event, and the amount of any requested adjustment to the Guaranteed Maximum Price shall be limited in accordance with that Section 17.3.	Change Order	Payments are made on change orders/requests that were not submitted timely and were not supported by an appropriate change event.	Moderate	See 17.2	See 17.2	17.2 14.21	See 17.2

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
366	Main Agreement	Changes in the Work	Changes to GMP	17	6.0.0	Subject to the condition precedent that the Construction Manager have complied with the notice and documentation provisions of this Article, and subject to the limitations stated in this Agreement, the Construction Manager is entitled to an adjustment to the Guaranteed Maximum Price in the following cases:	Change Order	Payments are made for unauthorized changes	Moderate	See 17.2	See 17.2	17.2	Review all changes to the GMP for compliance with the provisions in this article.
367	Main Agreement	Changes in the Work	Changes to GMP	17	6.1.0	If the Department issues a Change Directive or Change Order that directs the Construction Manager to proceed with work which is beyond the scope of Work included within this Agreement;	Change Order	Payments are made for unauthorized changes	Moderate	See 17.2	See 17.2	17.2	See 17.2
368	Main Agreement	Changes in the Work	Changes to GMP	17	6.2.0	The Construction Manager encounters Differing Site Conditions or Hazardous Materials not identified in the Preconstruction Phase or;	Change Order	Payments are made for unauthorized changes	Moderate	See 17.2	See 17.2	17.2	See 17.2
369	Main Agreement	Changes in the Work	Changes to GMP	17	6.3.0	If permitted by Section 5.11 of this Agreement.	Change Order	Payments are made for unauthorized changes	Moderate	See 17.2	See 17.2	17.2, 5.11	See 17.2
370	Main Agreement	Changes in the Work	Deductive Change Orders	17	7.0.0	The Department reserves the right to issue deductive Change Orders (reducing the Guaranteed Maximum Price) when changes are effected, by Change Directive or otherwise, which will decrease the cost of completing the Work or the time within which it can be completed.	N/A	N/A	N/A	N/A	N/A		N/A
371	Main Agreement	Changes in the Work	Omitted	17	8.0.0	[Intestinally Omitted]	N/A	N/A	N/A	N/A	N/A		N/A
372	Main Agreement	Changes in the Work	Executed Change Orders Final	17	9.0.0	The Construction Manager agrees that any Change Order executed by the Department and Construction Manager constitutes its full and final adjustment for all costs, delays, disruptions, inefficiencies, accelerations, schedule impacts, or other consequences arising from the change in question, whether a Change Directive, or a Change Event, or from any claimed cumulative effect of changes made to the date of the Change Order, and that no further adjustments in compensation or time shall be sought or made with respect to the Change Directive or the Change Event giving rise to the Change Order. Although the Parties anticipate that most Change Orders will not require an adjustment to the Cost of General Conditions, if the Work described in a Change Order requires an increase or decrease in the Maximum Cost of General Conditions (i.e. because such a Change requires additional field staff or other equipment that would be classified as General Conditions Costs), the Change Order shall contain an increase to the Maximum Cost General Conditions adjusting such amount. The cost of processing a Change Order shall not be considered an event that will require an increase in the Maximum Cost of General Conditions.	Change Order	Payments are made for unauthorized changes	Moderate	See 17.2	See 17.2	17.2	See 17.2
373	Main Agreement	Changes in the Work	Failure to Agree	17	10.0.0	If the Construction Manager claims entitlement to a change in the Agreement, and the Department does not agree that any action or event has occurred to justify any change in time or compensation, or if the Parties fail to agree upon the appropriate amount of the adjustment in time or compensation, the Department will unilaterally make such changes, if any, to the Agreement, as it determines are appropriate pursuant to the Agreement. The Construction Manager shall proceed with the Work and the Department's directives, without interruption or delay, and shall make a claim as provided in Article 18 herein. Failure to proceed due to a dispute over a change request shall constitute a material breach of the Contract and entitle the Department to all available remedies for such breach, including, without limitation, termination for default.	N/A	N/A	N/A	N/A	N/A		N/A
374	Main Agreement	Changes in the Work	Omitted	17	11.0.0	[Intentionally Omitted]	N/A	N/A	N/A	N/A	N/A		N/A
375	Main Agreement	Claims and Dispute Resolution	Claims and Dispute Resolution	18	0.0.0	All claims or disputes arising out of this Agreement shall be governed by the terms of the Standard Contract Provisions (Construction Contracts)	N/A	N/A	N/A	N/A	N/A		N/A
376	Main Agreement	Mutual Waiver of Consequential Damages	Mutual Waiver of Consequential Damages	19	0.0.0	Notwithstanding anything to the contrary contained in this Agreement, the Construction Manager and the Department waive claims against each other for consequential damages arising out of or relating to this Agreement. This mutual waiver includes without limitation: (a) Damages incurred by the Department for rental expenses and for loss of use, income, profit, financing, business and reputation and for the loss of management or employee productivity or the services of such persons; and (b) Damages incurred by the Construction Manager for principal office expenses including compensation of personnel stationed, for loss of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with the terms of the Contract.	N/A	N/A	N/A	N/A	N/A		N/A
377	Exhibit J - Standard Contract Provisions	Specifications and Drawings	Specifications and Drawings	2	0.0.	The Contractor shall keep on the work site a copy of Contract drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the Contract drawings, or shown on the Contract drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. There shall be no change orders or equitable adjustments for work related to items appearing in either the Contract drawing or specifications. All Contract requirements are equally binding. Each Contract requirement, whether or not omitted elsewhere in the Contract, is binding as though occurring in any or all parts of the Contract. In case of discrepancy:	N/A	N/A	N/A	N/A	N/A		N/A
378	Exhibit J - Standard Contract Provisions	Specifications and Drawings	Specifications and Drawings	2	1.0.	The Contracting Officer shall be promptly notified in writing of any error, discrepancy or omission, apparent or otherwise.	N/A	N/A	N/A	N/A	N/A		N/A
379	Exhibit J - Standard Contract Provisions	Specifications and Drawings	Specifications and Drawings	2	2.0.	Applicable Federal, State, and Municipal Code requirements have priority over: the Contract form, General Provisions, Change Orders, Addenda, Contract drawings, Special Provisions and Specifications.	Other	Contradicting contract terms	Low	See 1.7	See 1.7	1.7	See 1.7
380	Exhibit J - Standard Contract Provisions	Specifications and Drawings	Specifications and Drawings	2	3.0.	The Contract form, Standard Contract Provisions, General Provisions and Labor Provisions have priority over: Change Orders, Addenda, Contract drawings, Special Provisions and Specifications.	Other	Contradicting contract terms	Low	See 1.7	See 1.7	1.7	See 1.7
381	Exhibit J - Standard Contract Provisions	Specifications and Drawings	Specifications and Drawings	2	4.0.	Change Orders have priority over: Addenda, Contract drawings and Specifications.	Other	Contradicting contract terms	Low	See 1.7	See 1.7	1.7	See 1.7
382	Exhibit J - Standard Contract Provisions	Specifications and Drawings	Specifications and Drawings	2	5.0.	Addenda have priority over: Contract drawings, Special Provisions and Specifications. A later dated Addendum has priority over earlier dated Addenda.	Other	Contradicting contract terms	Low	See 1.7	See 1.7	1.7	See 1.7
383	Exhibit J - Standard Contract Provisions	Specifications and Drawings	Specifications and Drawings	2	6.0.	Special Provisions have priority over: Contract drawings and other specifications.	Other	Contradicting contract terms	Low	See 1.7	See 1.7	1.7	See 1.7
384	Exhibit J - Standard Contract Provisions	Specifications and Drawings	Specifications and Drawings	2	7.0.	Shown and indicated dimensions have priority over scaled dimensions.	Other	Contradicting contract terms	Low	See 1.7	See 1.7	1.7	See 1.7
385	Exhibit J - Standard Contract Provisions	Specifications and Drawings	Specifications and Drawings	2	8.0.	Original scale drawings and details have priority over any other different scale drawings and details.	Other	Contradicting contract terms	Low	See 1.7	See 1.7	1.7	See 1.7
386	Exhibit J - Standard Contract Provisions	Specifications and Drawings	Specifications and Drawings	2	9.0.	Large scale drawings and details have priority over small scale drawings and details.	Other	Contradicting contract terms	Low	See 1.7	See 1.7	1.7	See 1.7
387	Exhibit J - Standard Contract Provisions	Specifications and Drawings	Specifications and Drawings	2	10.0.	Any adjustment by the Contractor without a prior determination by the Contracting Officer shall be at his own risk and expense. The Contracting Officer will furnish from time to time such detail drawings and other information as he may consider necessary, unless otherwise provided.	N/A	N/A	N/A	N/A	N/A		N/A
388	Exhibit J - Standard Contract Provisions	Changes	Designated Change Orders	3	A.0.	The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make any change in the work within the general scope of the Contract, including but not limited to changes 1. In the Contract drawings and specifications; 2. In the method or manner of performance of the work; 3. In the Government furnished facilities, equipment, materials or services; or 4. Directing acceleration in the performance of the work. Nothing provided in this Article shall excuse the Contractor from proceeding with the prosecution of the work so changed.	Change Order	Change orders are issued by unauthorized personnel	Moderate	See 17.2	See 17.2	17.2	See 17.2
389	Exhibit J - Standard Contract Provisions	Changes	Other Change Orders	3	B.0.	Any other written order or an oral order (which term as used in this Section (B) shall include direction, instruction, interpretation, or determination) from the Contracting Officer which causes any such change, shall be treated as a Change Order under this Article, provided that the Contractor gives the Contracting Officer written notice stating the date, circumstances and sources of the order and that the Contractor regards the order as a Change Order.	Change Order	Change orders are issued by unauthorized personnel	Moderate	See 17.2	See 17.2	17.2	See 17.2
390	Exhibit J - Standard Contract Provisions	Changes	General Requirements	3	C.0.	Except as herein provided, no order, statement or conduct of the Contracting Officer shall be treated as a change under this Article or entitle the Contractor to an equitable adjustment hereunder. If any change under this Article causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this Contract whether or not changed by any order, an equitable adjustment shall be made and the Contract modified in writing accordingly; provided, however, that except for claims based on defective specifications, no claim for any change under (B) above shall be allowed for any cost incurred more than 20 days before the Contractor gives written notice as therein required unless this 20 days is extended by the Contracting Officer and provided further, that in case of defective drawings and specifications, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective drawings and specifications. If the Contractor intends to assert a claim for an equitable adjustment under this Article, he must, within 30 days after receipt of a written Change Order under (A) above or the furnishing of a written notice under (B) above, submit to the Contracting Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Contracting Officer. The statement of claim hereunder may be included in the notice under (B) above. With respect to the notification requirements hereunder, time is of the essence. A failure to provide timely notice constitutes waiver of the claim. No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under the Contract.	Change Order	CM does not notify owner of cost or schedule change within required time limit	Moderate	See 17.2	See 17.2	17.2	See 17.2

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
391	Exhibit J - Standard Contract Provisions	Changes	Change Order Breakdown	3	D.0.	Contract prices shall be used for Change Order work where work is of similar nature; no other costs, overhead or profit will be allowed. Where Contract prices are not appropriate and the nature of the change is known in advance of construction, the parties shall attempt to agree on a fully justifiable price adjustment and/or adjustment of completion time. When Contract prices are not appropriate, or the parties fail to agree on equitable adjustment, or in processing claims, equitable adjustment for Change Order work shall be per this Article and Article 4 and shall be based upon the breakdown shown in following subsections 1. through 7. The Contractor shall assemble a complete cost breakdown that lists and substantiates each item of work and each item of cost.	Change Order	OH&P is overcharged on change orders	Moderate	See 17.2	See 17.2	17.2	See 17.2
392	Exhibit J - Standard Contract Provisions	Changes	Change Order Breakdown	3	D.1.	Labor—Payment will be made for direct labor cost plus indirect labor cost such as insurance, taxes, fringe benefits and welfare provided such costs are considered reasonable. Indirect costs shall be itemized and verified by receipted invoices. If verification is not possible, up to 18 percent of direct labor costs may be allowed. In addition, up to 20 percent of direct plus indirect labor costs may be allowed for overhead and profit.	Labor	Direct or indirect labor is unsupported. OH&P is overcharged.	High	See 9.2.1	See 9.2.1	9.1	See 9.2.1
393	Exhibit J - Standard Contract Provisions	Changes	Change Order Breakdown	3	D.2.	Bond—Payment for additional bond cost will be made per bond rate schedule submitted to the Office of Contracting and Procurement with the executed Contract.	Bonds	Bond payments do not adhere to the rate schedule	Moderate	Rate schedule submitted to the Office of Contracting and Procurement	See 9.1.8	9.1.6; 9.1.8; 11.1.6; 11.2; 11.3; Exhibit J 3.D.2, 9.0, 19.0	See 9.1.8
394	Exhibit J - Standard Contract Provisions	Changes	Change Order Breakdown	3	D.3.	Materials—Payment for cost of required materials will be F.O.B. destination (the job site) with an allowance for overhead and profit.	Change Order	OH&P is overcharged on change orders	Moderate	See 17.2	See 17.2	17.2	See 17.2
395	Exhibit J - Standard Contract Provisions	Changes	Change Order Breakdown	3	D.4.	Rented Equipment—Payment for required equipment rented from an outside company that is neither an affiliate of, nor a subsidiary of, the Contractor will be based on receipted invoices which shall not exceed rates given in the current edition of the Rental Rate Blue Book for Construction Equipment published by Data Quest. If actual rental rates exceed manual rates, written justification shall be furnished to the Contracting Officer for consideration. No additional allowance will be made for overhead and profit. The Contractor shall submit written certification to the Contracting Officer that any required rented equipment is neither owned by nor rented from the Contractor or an affiliate of or subsidiary of the Contractor.	Change Order	Payments exceed actual costs	High	See 17.2	See 17.2	17.2	See 17.2
396	Exhibit J - Standard Contract Provisions	Changes	Change Order Breakdown	3	D.5.	Contractor's Equipment— Payment for required equipment owned by the Contractor or an affiliate of the Contractor will be based solely on an hourly rate derived by dividing the current appropriate monthly rate by 176 hours. No payment will be made under any circumstances for repair costs, freight and transportation charges, fuel, lubricants, insurance, any other costs and expenses, or overhead and profit. Payment for such equipment made idle by delays attributable to the Government will be based on one-half the derived hourly rate under this subsection.	Change Order	Payments exceed actual costs	High	See 17.2	See 17.2	17.2	See 17.2
397	Exhibit J - Standard Contract Provisions	Changes	Change Order Breakdown	3	D.6.	Miscellaneous—No additional allowance will be made for general superintendence, use of small tools and other costs for which no specific allowance is herein provided.7. Subcontract Work—Payment for additional necessary subcontract work will be based on applicable procedures in 1. through 6., to which total additional subcontract work up to an additional 10 percent may be allowed for the Contractor's overhead and profit.	Change Order	Change orders include disallowed costs/ allowances. OH&P is overcharged on change orders	Moderate	See 17.2	See 17.2	17.2	See 17.2
398	Exhibit J - Standard Contract Provisions	Changes	Change Order Breakdown	3	D.7.	Subcontract Work—Payment for additional necessary subcontract work will be based on applicable procedures in 1. through 6., to which total additional subcontract work up to an additional 10 percent may be allowed for the Contractor's overhead and profit.	Change Order	OH&P is overcharged on change orders	Moderate	See 17.2	See 17.2	17.2	See 17.2
399	Exhibit J - Standard Contract Provisions	Equitable Adjustment of Contract Terms	Differing Site Conditions	4	A.0.	During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the Contractor, upon discovering such conditions, shall promptly notify the Contracting Officer in writing of the specific differing conditions before they are disturbed and before the affected work is performed.	Change Order	Owner is not informed of differing site conditions/ pending or proposed change orders	Moderate	See 17.2	See 17.2	17.2	See 17.2
400	Exhibit J - Standard Contract Provisions	Equitable Adjustment of Contract Terms	Differing Site Conditions	4	A.1.	Upon written notification, the Contracting Officer will investigate the conditions, and if he/she determines that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding loss of anticipated profits, will be made and the contract modified in writing accordingly. The Contracting Officer will notify the Contractor of his/her determination whether or not an adjustment of the contract is warranted.	Change Order	Contract changes are not made through the change order process	High	See 17.2	See 17.2	17.2	See 17.2
401	Exhibit J - Standard Contract Provisions	Equitable Adjustment of Contract Terms	Differing Site Conditions	4	A.2.	No contract adjustment which results in a benefit to the Contractor will be allowed unless the contractor has provided the required written notice; a failure to notify the Contracting Officer of the changed conditions prior to work being disturbed by said conditions shall constitute a permanent waiver of all right to compensation related to the changed conditions by the Contractor.	Change Order	Contract changes are not made through the change order process	High	See 17.2	See 17.2	17.2	See 17.2
402	Exhibit J - Standard Contract Provisions	Equitable Adjustment of Contract Terms	Differing Site Conditions	4	A.3.	No contract adjustment will be allowed under this clause for any effects caused on unchanged work.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
403	Exhibit J - Standard Contract Provisions	Equitable Adjustment of Contract Terms	Suspension of Work Ordered by the Contracting Officer	4	B.1.	If the performance of all or any portion of the work is suspended or delayed by the Contracting Officer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the Contractor shall submit to the Contracting Officer in writing a request for equitable adjustment within seven (7) calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
404	Exhibit J - Standard Contract Provisions	Equitable Adjustment of Contract Terms	Suspension of Work Ordered by the Contracting Officer	4	B.2.	Upon receipt, the Contracting Officer will evaluate the Contractor's request. If the Contracting Officer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control or and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the Contracting Officer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The Contracting Officer will notify the Contract of his/her determination whether or not an adjustment of the contract is warranted.	Change Order	Contract changes are not made through the change order process	High	See 17.2	See 17.2	17.2	See 17.2
405	Exhibit J - Standard Contract Provisions	Equitable Adjustment of Contract Terms	Suspension of Work Ordered by the Contracting Officer	4	B.3.	No contract adjustment will be allowed unless the Contractor has submitted the request for adjustment within the time prescribed; a failure to submit a request for adjustment in the time prescribed shall constitute waiver of all right to compensation related to the suspension of work by the Contractor.	Change Order	Contract changes are not made through the change order process	High	See 17.2	See 17.2	17.2	See 17.2
406	Exhibit J - Standard Contract Provisions	Equitable Adjustment of Contract Terms	Suspension of Work Ordered by the Contracting Officer	4	B.4.	No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided for or excluded under any other term of condition of this contract.	Change Order	Contract changes are not made through the change order process	High	See 17.2	See 17.2	17.2	See 17.2
407	Exhibit J - Standard Contract Provisions	Equitable Adjustment of Contract Terms	Significant Changes in the Character of Work	4	C.1.	The Contracting Officer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the Contractor agrees to perform the work as altered.	Change Order	Contract changes are not made through the change order process	Moderate	See 17.2	See 17.2	17.2	See 17.2
408	Exhibit J - Standard Contract Provisions	Equitable Adjustment of Contract Terms	Significant Changes in the Character of Work	4	C.2.	If the alterations or changes in quantities significantly change the character of the work under the contract, whether or not changed by any such different quantities or alterations, an adjustment, excluding loss of anticipated profits, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the Contractor in such amount as the Contracting Officer may determine to be fair and reasonable.	Change Order	Contract changes are not made through the change order process	Moderate	See 17.2	See 17.2	17.2	See 17.2
409	Exhibit J - Standard Contract Provisions	Equitable Adjustment of Contract Terms	Significant Changes in the Character of Work	4	C.3.	If the alterations or changes in quantities significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.	Change Order	Contract changes are not made through the change order process	Moderate	See 17.2	See 17.2	17.2	See 17.2
410	Exhibit J - Standard Contract Provisions	Equitable Adjustment of Contract Terms	Significant Changes in the Character of Work	4	C.4.	The term "significant change" shall be construed to apply only to the following circumstances a. When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or b. When an item of work is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in the case of a decrease below 75 percent, to the actual amount of work performed.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
411	Exhibit J - Standard Contract Provisions	Termination	Termination Generally	5	A.0.	Termination, whether for default or convenience, is not a Government claim. The Contracting Officer may terminate a contract for default, in whole or in part, if the termination is in the best interests of the Government, and the Contractor does any of the following: (a) Fails to deliver the goods or complete the work or services within the time specified in the contract or any modification; (b) Fails to make sufficient progress on contract performance so as to endanger performance of the contract within the time specified or in the manner specified in the contract; (c) Fails or refuses to go forward with the work in accordance with the direction of the Contracting Officer; (d) Expresses through word or conduct an intention not to complete the work in accordance with the directions of the Contracting Officer; (e) Fails to perform any of the other provisions of the contract; (f) Materially deviates from the representations and capabilities set forth in the Contractor's response to the solicitation. A termination for default is a final decision of a Contracting Officer. In order to contest a termination for default, the Contractor must submit a certified request to convert the termination for default to a termination for convenience with all documents supporting such conversion and comply with all contract provisions and laws relating to terminations for convenience, including the submission of a certified termination for convenience settlement proposal. The submission of the certified request for conversion to a termination for convenience and certified termination settlement proposal to the Contracting Officer must occur prior to 90 days from the date of the Contracting Officer's final decision.	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
412	Exhibit J - Standard Contract Provisions	Termination	Delays	5	B.0.	If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in the Contract, or any extension thereof, or fails to complete said work within specified time, the Government may, by written notice to the Contractor, terminate his right to proceed with the work or such part of the work involving the delay. In such event the Government may take over the work and prosecute the same to completion, by contract or otherwise , and may take possession of and utilize in completing the work such materials, appliances, and plant as may have been paid for by the Government or may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, he and his sureties shall be liable for any liability to the Government resulting from his refusal or failure to complete the work within the specified time. If fixed and agreed liquidated damages are provided in the Contract and if the Government does not so terminate the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until the work is completed and accepted. The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage if: 1. The delay in the completion the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the Government in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, climatic conditions beyond the normal which could be anticipated, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers (the term subcontractors or suppliers shall mean subcontractors or suppliers at any tier); and 2. The Contractor, within 72 hours from the beginning of any such delay, (unless the Contracting Officer grants a further period of time before the date of final payment under the Contract) notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time far completing the work when, in his judgment, the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in Article 7 herein. If, after notice of termination of the Contractor's right to proceed under the provisions of this Article, it is determined for any reason that the Contractor was not in default under the provisions of this Article, or that the delay was excusable under the provisions of this Article, the rights and obligations of the parties shall be in accordance with Article 6 herein. Failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of Article 7 herein. The rights and remedies of the Government provided in this Article are in addition to any other rights and remedies provided by law or under the Contract. The Government may, by written notice, terminate the Contract or a portion thereof as a result of an Executive Order of the President of the United States with respect to the prosecution of war or in the interest of national defense. When the Contract is so terminated, no claim for loss of anticipated profits will be permitted.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
413	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	A.0.	The performance of work under the Contract may be terminated by the Government in accordance with this Article in whole, or in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.	N/A	N/A	N/A	N/A	N/A		N/A
414	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	B.0.	After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:	N/A	N/A	N/A	N/A	N/A		N/A
415	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	B.1.	Stop work under the Contract on the date and to the extent specified in the Notice of Termination.	N/A	N/A	N/A	N/A	N/A		N/A
416	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	B.2.	Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract as is not terminated.	N/A	N/A	N/A	N/A	N/A		N/A
417	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	B.3.	Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.	N/A	N/A	N/A	N/A	N/A		N/A
418	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	B.4.	Assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts	N/A	N/A	N/A	N/A	N/A	N/A	N/A
419	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	B.5.	Settle all outstanding liabilities and all claims arising out of such termination of orders or subcontracts, with the approval or ratification of the Contracting Officer to the extent he may require, which approval or ratification shall be final for all purposes of this Article.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
420	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	B.6.	Transfer title to the Government and deliver in the manner, at the times, and to the extent, if any, directed by the Contracting Officer a. The fabricated or un-fabricated parts, work in progress, completed work, supplies, and other material procured as a part of, or acquired in connection with, the performance of the work terminated by the Notice of Termination, and b. The completed, or partially completed plans, drawings information and other property which , if the Contract bad been completed, would have been required to be furnished to the Government.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
421	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	B.7.	Use his best efforts to sell, in the manner, at the terms, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in 6 above provided, however, that the Contractor: a. Shall not be required to extend credit to any purchaser, and b. May acquire any property under the conditions prescribed and at a price or prices approved by the Contracting Officer, and c. Provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under the Contract or shall otherwise be credited to the price or cost of the work covered by the Contract or paid in such other manner as the Contracting Officer may direct.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
422	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	B.8.	Complete performance of such part of the work as shall not have been terminated by the Notice of Termination.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
423	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	B.9.	Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to the Contract which is in the possession of the Contractor and in which the Government has or may acquire an interest	N/A	N/A	N/A	N/A	N/A	N/A	N/A
424	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	B.10.	The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the cost, or any item of reimbursable cost, under this Article.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
425	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	B.11.	"Plant clearance period" means, for each particular property classification (such as raw materials, purchased parts and work in progress) at any one plant or location, a period beginning with the effective date of the termination for convenience and ending 90 days after receipt by the Contracting Officer of acceptable inventory schedules covering all items of that particular property classification in the termination inventory at that plant or location, or ending on such later date as may be agreed to by the Contracting Officer and the Contractor. Final phase of a plant clearance period means that part of a plant clearance period which occurs alter the receipt of acceptable inventory schedules covering all items of the particular property classification at the plant or location. At any time after expiration of the plant clearance period, as defined above, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than 15 days thereafter, the Government will accept title to such items and remove them or enter into a storage agreement covering the same; provided, that the list submitted shall be subject to verification by the Contracting Officer upon removal of the items or, if the items are stored, within 45 days from the date of submission of the list, and any necessary adjustments to correct the list as submitted, shall be made prior to final settlement.	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
426	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	C.0.	After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer this termination claim, in the form with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than 90 days from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made in writing within such 90 day period or authorized extension thereof. In the event the Contractor was terminated for default and it asserts that it is entitled to a termination for convenience, its certified request for the conversion of the default termination to one for convenience and its certified termination settlement proposal must be submitted to the Contracting Officer prior to the expiration of 90 days from the date of the default termination. With respect to a termination for convenience, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such 90 day period or extension thereof. Nothing herein shall be construed to extend the time for the submission of a claim hereunder for a defaulted Contractor beyond 90 days from the date of the default termination. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any review required by the Government's procedures in effect as of the date of execution of the Contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the	N/A	N/A	N/A	N/A	N/A	N/A	N/A
427	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	D.0.	Subject to the provisions of C above, and subject to any review required by the Government's procedures in effect as of the date of execution of the Contract, the Contractor and Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this Article, which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in E below prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this Article, shall be deemed to limit, restrict or otherwise determine or effect the amount or amounts which	N/A	N/A	N/A	N/A	N/A		N/A
428	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	E.0.	In the event of the failure of the Contractor and the Contracting Officer to agree as provided in D above upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this Article, the Contracting Officer shall, subject to any review required by the Government's procedures in effect as of the date of execution of the Contract, determine, on the basis of information available to him, the amount, if any, due the Contractor by reason of the termination and shall pay to the Contractor the amounts determined by the Contracting Officer, as follows, but without duplication of any amounts agreed upon in accordance with D above:	N/A	N/A	N/A	N/A	N/A		N/A
429	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	E.1.	With respect to all Contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of: a. The cost of such work; b. The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in B 5. above, exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor prior to the effective date of the Notice of Termination of work under the Contract, which amounts shall be included in the cost on account of which payment is made under E1.a. above; and c. A sum, as profit on E.1.a. above, determined by the Contracting Officer to be fair and reasonable; provided however, that if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed under this subparagraph and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and provided further that profit shall be allowed only on preparations made and work done by the Contractor for the terminated portion of the Contract but may not be allowed on the Contractor's settlement expenses. Anticipatory profits and consequential damages will not be allowed. Any reasonable method may be used to arrive at a fair profit, separately or as part of the whole settlement.	N/A	N/A	N/A	N/A	N/A		N/A
430	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	E.2.	The reasonable cost of the preservation and protection of property incurred pursuant to B.9; and any other reasonable cost incidental to termination of work under the Contract including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under the Contract.	N/A	N/A	N/A	N/A	N/A		N/A
431	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	F.0.	The total sum to be paid to me Contractor under E.1 above shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. Except for normal spoilage, and except to the extent that the Government shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor under E.1. above, the fair value, as determined by the Contracting Officer , of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the Government, or to a buyer pursuant to B.7 above	N/A	N/A	N/A	N/A	N/A		N/A
432	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	G.0.	The Contractor shall have the right of appeal, under Article 7 herein, from any determination made by the Contracting Officer under C. or E. above, except that, if the Contractor has failed to submit his claim within the time provided in C above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under C. or E. above, the Government shall pay to the Contractor the following:	N/A	N/A	N/A	N/A	N/A		N/A
433	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	G.1.	If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or	N/A	N/A	N/A	N/A	N/A	N/A	N/A
434	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	G.2.	If an appeal had been taken, the amount finally determined on such appeal	N/A	N/A	N/A	N/A	N/A	N/A	N/A
435	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	H.0.	In arriving at the amount due the Contractor under this Article there shall be deducted:	N/A	N/A	N/A	N/A	N/A	N/A	N/A
436	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	H.1.	all unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of the Contract;	N/A	N/A	N/A	N/A	N/A	N/A	N/A
437	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	H.2.	any claim which the Government may have against the Contractor in connection with the Contract; and	N/A	N/A	N/A	N/A	N/A	N/A	N/A
438	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	H.3.	the agreed price for, or the proceeds of sale of, any materials, supplies or other things kept by the Contractor or sold, pursuant to the provisions of this Article and not otherwise recovered by or credited to the Government	N/A	N/A	N/A	N/A	N/A	N/A	N/A
439	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	I.0.	If the termination hereunder be partial, prior to the settlement of the terminated portion of the Contract, the Contractor may file with the Contracting Officer a request in writing for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made at such price or prices; however, nothing contained herein shall limit the right of the Government and the Contractor to agree upon the amount or amounts to be paid to the Contractor for the completion of the continued portion of the Contract when said Contract does not contain an established Contract price for such continued portion	N/A	N/A	N/A	N/A	N/A	N/A	N/A
440	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	J.0.	The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Contractor in connection with the terminated portion of the Contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this Article, such excess Shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum for the period from the date such excess is received by the Contractor to the date on which such excess is repaid to the Government; provided however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
441	Exhibit J - Standard Contract Provisions	Termination for Convenience of the Government	Termination for Convenience of the Government	6	K.0.	Unless otherwise provided in the Contract or by applicable statute, the Contractor, from the effective date of termination and for a period of three years after final settlement under the Contract, shall preserve and make available to the Government at all reasonable times at the office of the Contractor, but without direct charge to the Government, all his books, records, documents and other evidence bearing on the costs and expenses of the Contractor under the Contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs and other authentic reproductions thereof.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
442	Exhibit J - Standard Contract Provisions	Disputes	Disputes	7	A.0.	All disputes arising under or relating to this contract shall be resolved as provided herein	N/A	N/A	N/A	N/A	N/A	N/A	N/A
443	Exhibit J - Standard Contract Provisions	Disputes	Disputes	7	B.0.	Claims by a Contractor against the Government.	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
444	Exhibit J - Standard Contract Provisions	Disputes	Disputes	7	B.1.	Claim, as used in Section B of this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. (a) All claims by a Contractor against the Government arising under or relating to a contract shall be in writing and shall be submitted to the Contracting Officer for a decision. (b) Within 120 days after receipt of a claim, the Contracting Officer shall issue a decision, whenever possible taking into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor. (c) Any failure by the Contracting Officer to issue a decision on a contract claim within the required time period shall be deemed to be a denial of the claim and shall authorize the commencement of an appeal on the claim as otherwise provided. (d) (1) If a Contractor is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the Government for an amount equal to the unsupported part of the claim in addition to all costs to the Government attributable to the cost of reviewing that part of the Contractor's claim. (2) Liability under this section shall be determined within 6 years of the commission of the misrepresentation of fact or fraud. (e) All cost data, pricing data, and task data of claims hereunder must be certified as accurate, complete, required, and necessary to the best of the Contractor's knowledge and belief. Further, all task or work data in the claim must be described therein to the smallest unit of work or task. The Contracting Officer may require any additional certifications, descriptions or explanations of the claim. (f) The parties agree that time is of the essence and all claims hereunder must be presented to the Contracting Officer for a final decision within thirty (30) days of the occurrence of the circumstances giving rise to such claim or within thirty (30) days of when the Contractor knew or should have known of the circumstances giving rise to such claim, otherwise compensation for that claim is waived.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
445	Exhibit J - Standard Contract Provisions	Disputes	Disputes	7	B.2.	The Contractor's claim shall contain at least the following: (a) A description of the claim and the amount in dispute; (b) Any data or other information in support of the claim; (c) A brief description of the Contractor 's efforts to resolve the dispute prior to filing the claim; and (d) The Contractor's request for relief or other action by the Contracting Officer. (e) The certification of the accuracy, completeness, requirement, and necessity of all aspects of the claim.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
446	Exhibit J - Standard Contract Provisions	Disputes	Disputes	7	B.3.	The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
447	Exhibit J - Standard Contract Provisions	Disputes	Disputes	7	B.4.	Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
448	Exhibit J - Standard Contract Provisions	Disputes	Disputes	7	C.0.	Claims by the Government against a Contractor	N/A	N/A	N/A	N/A	N/A	N/A	N/A
449	Exhibit J - Standard Contract Provisions	Disputes	Disputes	7	C.a.	Claim as used in Section C of this clause, means a written demand or written assertion by the Government, including the Contracting Officer, seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. Nothing herein shall be construed to require the Government to notify the Contractor prior to the issuance of the Contracting Officer's final decision.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
450	Exhibit J - Standard Contract Provisions	Disputes	Disputes	7	C.b.	(1) All claims by the Government against a Contractor arising under or relating to a contract shall be decided by the Contracting Officer, who shall issue a decision in writing and furnish a copy of the decision to the Contractor. (2) The decision shall be supported by reasons and shall inform the Contractor of his or her rights. Specific findings of fact shall not be required. (3) This clause shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud. (4) The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor. (5) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
451	Exhibit J - Standard Contract Provisions	Payments to Contractor	Payments to Contractor	8	0.0.	The Government will pay the contract price or prices as hereinafter provided in accordance with Government regulations The Government will make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates approved by the Contracting Officer. The Contractor shall furnish a breakdown of the total Contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates the Contracting Officer, at his discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site may also be taken into consideration: 1. If such consideration is specifically authorized by the Contract; 2. If the Contractor furnishes satisfactory evidence that he has acquired title to such material, that it meets Contract requirements and that it will be utilized on the work covered by the Contract; and 3. If the Contractor furnishes to the Contracting Officer an itemized list. The Contracting Officer at his/her discretion shall cause to be with held retention in an amount sufficient to protect the interest of the Government. The amount shall not exceed ten percent (10%) of the partial payment. However, if the Contracting Officer, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, he may authorize any of the remaining progress payments to be made in full or may retain from such remaining partial payments less than 10 percent thereof. Also, whenever work is substantially complete, the Contracting Officer, if he considers the amount retained to be in excess of the amount adequate for the protection of the Government, at his discretion, may release to the Contractor all or a portion of such excess amount. Furthermore, on completion and acceptance of each separate building, public work, or other division of the Contract, on which the price is stated separately in the Contract, payment may be made therefore without retention of a percentage, less authorized deductions. All material and work covered by progress payments made shall thereupon become the sole property of the Government, but this provision shall not be construed as relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work, or as waiving the right of the Government to require the fulfillment of all of the terms of the Contract. Upon completion and acceptance of all work, the amount due the Contractor under the Contract shall be paid upon presentation at a properly executed voucher and after the Contractor shall have furnished the Government with a release, if required, of all claims against the Government arising by virtue of the Contract, other than claims in stated amounts as may be specifically excepted by the Contractor from the operation of the release.	Pay Application	Payment made for stored materials off site	Moderate	See 10.1 and 10.4	See 10.1 and 10.4	10.1, 10.4	See 10.1 and 10.4
452	Exhibit J - Standard Contract Provisions	Transfer of Assignment	Transfer of Assignment	9	0.0.	Unless otherwise provided by law, neither the Contract nor any interest therein may be transferred or assigned by the Contractor to any other party without the written consent of the Contracting Officer nor without the written acceptance by the surety on the performance and payment bond securing the Contract of the assignee as the Contractor and the principal on such bond; and any attempted transfer or assignment not authorized by this Article shall constitute a breach of the Contract and the Government may for such cause terminate the right of the Contractor to proceed in the same manner as provided in Article 5 herein, and the Contractor and his sureties shall be liable to the Government for any excess cost occasioned the Government thereby.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
453	Exhibit J - Standard Contract Provisions	General	General	10	A.0.	Unless otherwise specifically provided in the Contract, all equipment, material and articles incorporated in the work covered by the Contract shall be new and of the most suitable grade for the purpose intended. Unless otherwise specifically provided in the Contract, reference to any equipment, material, article or patented process, by trade name, make or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition., and the Contractor may use any equipment, material, article or process which, in the judgment of the Contracting Officer, is equivalent to that named unless otherwise specified. The Contractor shall furnish to the Contracting Officer for his approval the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature and rating of the mechanical and other equipment which the Contractor contemplates incorporating in the work. Machinery and equipment shall be in proper condition. When required by the Contract or when called for by the Contracting Officer, the Contractor shall furnish to the Contracting Officer for approval full information concerning the material or articles which he contemplates incorporating in the work. When so directed, samples shall be submitted for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles installed or used without required approval shall be at the risk of subsequent rejection and subject to satisfactory replacement at Contractor's expense	Pay Application	N/A	N/A	See 9.1	See 9.1	N/A	N/A
454	Exhibit J - Standard Contract Provisions	General	Surplus Materials Use	10	B.0.	Whenever specified in the Contract or authorized by the Contracting Officer that materials become the property of the Contractor, which by reference or otherwise shall include disposal of materials, it is understood that the Contractor accepts such materials "as is" with no further expense or liability to the Government. If such material specified in the Contract will have a potential or real interest of value, the Contractor shall make allowance in the Contract to show such value.	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
455	Exhibit J - Standard Contract Provisions	General	Government Material	10	C.0.	No materials furnished by the Government shall be applied to any other use, public or private, than that for which they are issued to the Contractor. The full amount of the cost to the Government of all materials furnished by the Government to the Contractor and for which no charge is made, which are not accounted for by the Contractor to the satisfaction of the Contracting Officer, will be charged against the Contractor and his sureties and may be deducted from any monies due the Contractor, and this charge shall be in addition to and not in lieu of any other liabilities of the Contractor whether civil or criminal. Materials furnished by the Government for which a charge is made at a rate mentioned in the specifications will be delivered to the Contractor upon proper requisitions therefore and will be charged to his account.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
456	Exhibit J - Standard Contract Provisions	General	Plant	10	D.0.	The Contractor shall at all times employ sufficient tools and equipment for prosecuting the various classes of work to full completion in the manner and time required. The Contractor shall at all times perform work in sufficient light and shall provide proper illumination, including lighting required for night work as directed, as a Contract requirement. All equipment, tools, formwork and staging used on the project shall be of sufficient size and in proper mechanical and safe condition to meet work requirements, to produce satisfactory work quality and to prevent injury to persons, the project or adjacent property. When methods and equipment are not prescribed in the Contract, the Contractor is free to use tools, methods and equipment that he satisfactorily demonstrates will accomplish the work in conformity with Contract requirements. If the Contractor desires to use a method or type of tool or equipment other than specified in the Contract, he shall request approval to do so; the request shall be in writing and shall include a full description of proposed methods, tools and equipment and reason for the change or substitution. Approval of substitutions and changed methods will be on condition that the Contractor will be fully responsible for producing work meeting Contract requirements. If after trial use of the substituted methods, tools and equipment, the Contracting Officer determines that work produced does not meet Contract requirements, the Contractor shall complete remaining work with specified methods, tools and equipment.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
457	Exhibit J - Standard Contract Provisions	General	Capability of Workers	10	E.0.	All work under the Contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require the Contractor to remove from the work any such employees as the Contracting Officer deems incompetent, careless, insubordinate, or otherwise objectionable, or whose continued employment on the work is deemed by the Contracting Officer to be contrary to the public interest. Such request will be in writing.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
458	Exhibit J - Standard Contract Provisions	General	Conformity of Work and Materials	10	F.0.	All work performed and materials and products furnished shall be in conformity, within indicated tolerances, with lines, grades, cross sections, details, dimensions, material and construction requirements shown or intended by the drawings arid specifications. When materials, products or work cannot be corrected, written notice of rejection will be issued. Rejected materials, products and work shall be eliminated from the project and acceptably replaced at Contractor's expense. The Contracting Officer's failure to reject any portion of the project shall not constitute implied acceptance nor in any way release the Contractor from Contract requirements.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
459	Exhibit J - Standard Contract Provisions	General	Unauthorized Work and Materials	10	G.0.	Work performed or materials ordered or furnished for the project deviating from requirements and specifications without written authority, will be considered unauthorized and at Contractor's expense. The Government is not obligated to pay for unauthorized work. Unauthorized work and materials may be ordered removed and replaced at Contractor's expense.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
460	Exhibit J - Standard Contract Provisions	Inspection and Acceptance	Inspection and Acceptance	11	0.0.	Except as otherwise provided in the Contract, inspection and test by the Government of material and workmanship required by the Contract shall be made at reasonable times and at the site of the work, unless the Contracting Officer determines that such inspection or test of material which is to be incorporated in the work shall be made at the place of production, manufacture or shipment of such material. To the extent specified by the Contracting Officer at the time of determining to make off-site inspection or test, such inspection or test shall be conclusive as to whether the material involved conforms to Contract requirements. Such off-site inspection or test shall not relieve the Contractor of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the Government after acceptance of the completed work under the terms of the last paragraph of this Article, except as herein above provided. The Contractor shall, without charge, replace any material and correct any workmanship found by the Government not to conform to Contract requirements and specifications, unless in the public interest the Government consents to accept such material or workmanship with an appropriate adjustment in Contract price. The Contractor shall promptly segregate and remove rejected material from the premises at Contractor's expense. If the Contractor does not promptly replace rejected material or correct rejected workmanship, the Government:	Pay Application	Payment is made inappropriately for CM rejected material/ work	Moderate	See 9.1	See 9.1		TBD
461	Exhibit J - Standard Contract Provisions	Inspection and Acceptance	Inspection and Acceptance	11	1.0.	May, by contract or otherwise, replace such material and correct such workmanship and charge the cost thereof to the Contractor, or	N/A	see Exhibit J, 11.0	N/A	see Exhibit J, 11.0	see Exhibit J, 11.0		see Exhibit J, 11.0
462	Exhibit J - Standard Contract Provisions	Inspection and Acceptance	Inspection and Acceptance	11	2.0.	May terminate the Contractor's right to proceed in accordance with Article 5 herein. The Contractor shall furnish promptly, without additional cost to the Government, all facilities, labor and material reasonably needed for performing such safe and convenient inspection and test as may be required by the Contracting Officer. All inspections and tests by the Government shall be performed in such manner as not unnecessarily to delay the work. Special, full size, and performance tests shall be performed as described in the Contract. The Contractor shall be charged with any additional cost of inspection when material and workmanship are not ready for inspection at the time specified by the Contractor. Should it be considered necessary or advisable by the Contracting Officer at any time before acceptance of the work, either in part or in its entirety, to make an examination of work completed, by removing or tearing out same, the Contractor shall, on request, promptly furnish all necessary facilities, labor and material to do same. If such work is found to be defective or nonconforming in any material respect, due to the fault of the Contractor or his subcontractors, he shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, an equitable adjustment shall be made in the Contract price to compensate the Contractor for the additional services involved in such examination and reconstruction and, if completion of the work has been delayed thereby, he shall, in addition, be granted an equitable extension of time. Unless otherwise provided in the Contract, acceptance by the Government will be made as promptly as practicable after completion and inspection of all work required by the Contract. Acceptance shall be final and conclusive except as regards to latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Government's rights under any warranty or guaranty, or as otherwise provided herein.	N/A	see Exhibit J, 11.0	N/A	see Exhibit J, 11.0	see Exhibit J, 11.0		see Exhibit J, 11.0
463	Exhibit J - Standard Contract Provisions	Superintendence by Contractor	Superintendence by Contractor	12	0.0.	The Contractor shall give his personal superintendence to the performance of the work or have a competent foreman or superintendent, satisfactory to the Contracting Officer, on the work site at all times during progress, with authority to act for him.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
464	Exhibit J - Standard Contract Provisions	Permits and Responsibilities	Permits and Responsibilities	13	0.0.	The Contractor shall, without expense to the Government, be responsible for obtaining any necessary licenses, certificates and permits, and for complying with any applicable Federal, State, and Municipal laws, codes and regulations, in connection with the prosecution of the work. He shall be similarly responsible for all damages to persons or property that occurs as a result of his fault or negligence. He shall take proper safety, health and environmental precautions to protect the work, the workers, the public, and the property of others. He shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire construction work, except for any completed unit of construction thereof which theretofore may have been accepted	Reporting/ Deliverable	CM does not have appropriate permits/ certifications prior to starting work	Low	Obtain CM licenses, permits, as required (proposal package)	Review CM licenses, permits, as required (proposal package)		Review CM licenses, permits, as required (proposal package)
465	Exhibit J - Standard Contract Provisions	Indemnification	Indemnification	14	A.0.	The Contractor shall indemnify and save harmless the Government and all of its officers, agents and servants against any and all claims or liability arising from or based on, or as a consequence or result of, any act, omission or default of the Contractor, his employees, or his subcontractors, in the performance of, or in connection with, any work required, contemplated or performed under the Contract.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
466	Exhibit J - Standard Contract Provisions	Indemnification	Indemnification	14	B.0.	Disputes between the Contractor and any subcontractors, material suppliers, or any other third parties over payments allegedly owed by the Contractor to a third party shall be resolved exclusively between the Contractor and the third party; the Contractor shall permit no pass-through suits to be brought against the Government by a third party in the Contractor's name. However, nothing herein shall be construed to prevent the Contractor from paying a subcontractor's claim and seeking a timely equitable adjustment hereunder.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
467	Exhibit J - Standard Contract Provisions	Protection Against Trespass	Protection Against Trespass	15	0.0.	Except as otherwise expressly provided in the Contract, the Contractor is authorized to refuse admission either to the premises or to the working space covered by the Contract to any person whose admission is not specifically authorized in writing by the Contracting Officer.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
468	Exhibit J - Standard Contract Provisions	Conditions Affecting the Work	Conditions Affecting the Work	16	A.0.	The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the work, and the general and local conditions which can affect the work and the cost thereof. Any failure by the Contractor to do so will not relieve him from responsibility for successfully performing the work as specified without additional expense to the Government The Government assumes no responsibility for any understanding or representation concerning conditions made by any of its officers or agents prior to the execution of the Contract, unless such understanding or representation by the Government is expressly stated in the Contract.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
469	Exhibit J - Standard Contract Provisions	Conditions Affecting the Work	Conditions Affecting the Work	16	B.0.	Available work and storage space designated by the Government shall be developed as required by the Contract or restored at completion of the project by the Contractor to a condition equivalent to that existing prior to construction. No payment will be made for furnishing or restoration of any work and storage space. If no area is designated or the area designated is not sufficient for the Contractor's operations, he shall obtain necessary space elsewhere at no expense or liability to the Government.	Pay Application	Payment made for storage of materials off site	Moderate	See 9.1	See 9.1	9.1	See 9.1
470	Exhibit J - Standard Contract Provisions	Conditions Affecting the Work	Conditions Affecting the Work	16	C.0.	No work shall be done at any time on Sundays or legal holidays or on any other day before 7 a.m. or after 7 p.m., except with the written permission of the Contracting Officer and pursuant to the requirements of the Police Requirements of the Government.	Labor	Labor is charged to project for non-working hours	High	See 9.2.1	See 9.2.1	9.1	See 9.2.1
471	Exhibit J - Standard Contract Provisions	Conditions Affecting the Work	Conditions Affecting the Work	16	D.0.	Subsurface and topographic information including borings data, utilities data and other physical data contained in the Contract or otherwise available, are not intended as representations or warranties but are furnished as available information. The Government assumes no expense or liability for the accuracy of, or interpretations made from, existing features. The Contractor shall be responsible for reasonable consideration of existing features above and below ground which may affect the project.	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
472	Exhibit J - Standard Contract Provisions	Conditions Affecting the Work	Conditions Affecting the Work	16	E.0.	The Contractor shall take necessary measures to prevent interruption of service or damage to existing utilities within or adjacent to the project. It shall be the Contractor's responsibility to determine exact locations of all utilities in the field. For any underground utility or vault encountered, the Contractor shall immediately notify the Contracting Officer and take necessary measures to protect the utility or vault and maintain the service until relocation by owner is accomplished. No additional payment will be made for the encountering of these obstructions. In case of damage to utilities by the Contractor, either above or below ground, the Contractor shall restore such utilities to a condition equivalent to that which existed prior to the damage by repairing, rebuilding or otherwise restoring as may be directed, at the Contractor's sole expense. Damaged utilities shall be repaired by the Contractor or, when directed by the Contracting Office the utility owner will make needed repairs at the Contractor's expense. No compensation, other than authorized time extensions, will be allowed the Contractor for protective measures, work interruptions, changes in construction sequence, changes in methods of handling excavation and drainage or changes in types of equipment used, made necessary by existing utilities, imprecise utility or vault information or by others performing work within or adjacent to the project.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
473	Exhibit J - Standard Contract Provisions	Conditions Affecting the Work	Conditions Affecting the Work	16	F.0.	The Contractor shall maintain the project site in a neat and presentable manner throughout the course of all operations, and shall be responsible for such maintenance until final acceptance by the Government. Trash containers shall be furnished, maintained and emptied by the Contractor to the satisfaction of the Contracting Officer. Excavated earthwork, stripped forms and all other materials and debris not scheduled for reuse in the project shall be promptly removed from the site. The Contracting Officer may order the Contractor to clean up the project site at any stage of work at no added expense to the Government If the Contractor fails to comply with this order, the Contracting Officer may require the work to be done by others and the costs will be charged to the Contractor. Upon completion of all work and prior to final inspection, the Contractor shall clean up and remove from the project area and adjacent areas all excess materials, equipment, temporary structures, and refuse, and restore said areas to an acceptable condition.	Reporting/ Deliverable	Failure to comply with neat/presentable requirements may cause noncompliance safety issues and/or work stoppage.	Moderate	N/A	1. Review measures taken by management to monitor compliance with the neat/presentable provisions 2. Verify the site appears neat/presentable		Periodically visit the job site to ensure compliance with the neat/presentable provisions
474	Exhibit J - Standard Contract Provisions	Conditions Affecting the Work	Conditions Affecting the Work	16	G.0.	Except as specifically authorized by the Contracting Officer, the Contractor shall not perform any private work abutting Government projects with any labor, materials, tools, equipment, supplies or supervision scheduled for the Contract until all work under the Contract has been completed. Contract materials used for any unauthorized purpose shall be subtracted from Contract amount.	Pay Application	CM does not have sufficient labor/ assets/ etc. to complete the project and/or overbilled for assets used for other projects	Moderate	See 9.1	See 9.1 1. Inspect site and determine if private work is abutting the project	9.1	See 9.1
475	Exhibit J - Standard Contract Provisions	Conditions Affecting the Work	Conditions Affecting the Work	16	H.0.	The contractor shall be in strict compliance with [D.C. Law 2-53, Government of Columbia Noise Control Act of 1977 and all provisions thereof. Effective March 16, 1978. 24 D.C.Register 5293.] (Or relevant local law)	Reporting/ Deliverable	Failure to comply with noise ordinance may cause noncompliance with funding agreements, fines, and/or work stoppage.	Moderate	Plan for compliance with Noise Control Act	Review measures taken by management to monitor compliance with the Noise Control Act	5.13.1	Periodically visit the job site to ensure compliance with the Noise Control Act
476	Exhibit J - Standard Contract Provisions	Other Contracts	Other Contracts	17	0.0.	The Government may undertake or award other contracts for additional work and the Contractor shall fully cooperate with such other contractors and Government employees and carefully coordinate his own work with such additional work as may be directed by the Contracting Officer. It is the duty of the Contractor to coordinate its activities with all third parties, including, but not limited to utilities, who may affect the Contract work hereunder. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or Government employees. The Government assumes no liability, other than authorized time extensions, for Contract delays and damages resulting from delays and lack of progress by others. The Contractor shall make no claim against the Government for delay or damages resulting from the actions of third parties, including, but limited to utilities	N/A	N/A	N/A	N/A	N/A	N/A	N/A
477	Exhibit J - Standard Contract Provisions	Patent Indemnity	Patent Indemnity	18	0.0.	Except as otherwise provided, the Contractor agrees to indemnify the Government and its officers, agents, and employees against liability, including costs and expenses, for infringement upon any Letters Patent of the United States (except Letters Patent issued upon an application which is now or may hereafter be, for reasons of national security, ordered by the Federal Government to be kept classified or otherwise withheld from issue) arising out of the performance of the Contract or out of the use or disposal, by or for the account of the Government, of supplies furnished or construction work performed hereunder.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
478	Exhibit J - Standard Contract Provisions	Additional Bond Security	Additional Bond Security	19	0.0.	If any surety upon any bond furnished in connection with the Contract becomes unacceptable to the Government, or if any such surety fails to furnish reports as to his financial condition from time to time as requested by the Government, the Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the Government and of persons supplying labor or materials in the prosecution of the work contemplated by the Contract. Provided that upon the failure of the Contractor to furnish such additional security within ten (10) days after written notice so to do, all payments under the Contract will be withheld until such additional security is furnished.	Bonds	CM payments without approved bond/ surety	Low	See 11.2	See 11.2	9.1.6; 9.1.8; 11.1.6; 11.2; 11.3; Exhibit J 3.D.2, 9.0, 19.0	See 11.2
479	Exhibit J - Standard Contract Provisions	Covenant Against Contingent Fees	Covenant Against Contingent Fees	20	0.0.	The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to terminate the Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
480	Exhibit J - Standard Contract Provisions	Appointment of Attorney	Appointment of Attorney	21	0.0.	The Contractor does hereby irrevocably designate and appoint the Clerk of the Superior Court of the Government and his successors in office as the true and lawful attorney of the Contractor for the purpose of receiving service of all notices and processes issued by any court in the Government, as well as service of all pleadings and other papers, in relation to any action or legal proceeding arising out of or pertaining to the Contract or the work required or performed hereunder. The Contractor expressly agrees that the validity of any service upon the said Clerk as herein authorized shall not be affected either by the fact that the Contractor was personally within the District of Columbia and otherwise subject to personal service at the time of such service upon the said Clerk or by the fact that the Contractor failed to receive a copy of such process, notice, pleading or other paper so served upon the said Clerk, provided that said Clerk shall have deposited in the United States mail, certified and postage prepaid, a copy of such process, notice, pleading or other papers addressed to the Contractor at the address stated in the Contract.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
481	Exhibit J - Standard Contract Provisions	Government Employees Not to Benefit	Government Employees Not to Benefit	22	0.0.	Unless a determination is made as provided herein, no officer or employee of the Government will be admitted to any share or part of this contract or to any benefit that may arise therefrom, and any contract made by the Contracting Officer or any Government employee authorized to execute contracts in which they or an employee of the Government will be personally interested shall be void, and no payment shall be made thereon by the Government or any officer thereof, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit. A Government employee shall not be a party to a contract with the Government and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the procuring agency that there is a compelling reason for contracting with the employee, such as when the Government's needs cannot reasonably otherwise be met. [DC Procurement Practices Act of I985, D.C. Law 6-85, D.C. Official Code, section 2-310.01, and Chapter 18 of the DC Personnel Regulations] (Or relevant local law). The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants not to employ any person having such known interests in the performance of the contract.	Related Parties	Conflicts of interest exist between the Department and the Construction Manager concerning the award of this contract.	High	Executed related party/ disclosure form	1. Validate related party forms/disclosures were requested from the CM and/or key Department individuals, collected, and reviewed by the Department		Require and review related party disclosure forms
482	Exhibit J - Standard Contract Provisions	Waiver	Waiver	23	0.0.	No Governmental waiver of any breach of any provision of the Contract shall operate as a waiver of such provision or of the Contract or as a waiver of subsequent or other breaches of the same or any other provision of the Contract; nor shall any action or non-action by the Contracting Officer or by the Government be construed as a waiver of any provision of the Contract or of any breach thereof unless the same has been expressly declared or recognized as a waiver by the Contracting Officer or the Government in writing.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
483	Exhibit J - Standard Contract Provisions	Buy American	Agreement	24	A.0.	In accordance with the Buy American Act (41 USC lOa-lOd), and Executive Order 10582. December 17, 1954 (3 CFR, 1954-58 Comp., p. 230), as amended by Executive Order 11051, September 27,1962 (3 CFR, 059—63 Comp., p. 635), the Contractor agrees that only domestic construction material will be used by the Contractor, subcontractors, material men and suppliers in the performance of the Contract, except for non-domestic material listed in the Contract.	Pay Application	CM does not comply with the sourcing requirements of the Buy America Act	Low	See 14.3	See 14.3	14.3	See 14.3.
484	Exhibit J - Standard Contract Provisions	Buy American	Domestic Construction Material	24	B.0.	"Construction material" means any article, material or supply brought to the construction site for incorporation in the building or work. An unmanufactured construction material is a "domestic construction material" if it has been mined or produced in the United States. A manufactured construction material is a "domestic construction material" if it has been manufactured in the United States and if the cost of its components which have been mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. "Component" means any article, material, or supply directly incorporated in a construction material.	Pay Application	CM does not comply with the sourcing requirements of the Buy America Act	Low	See 14.3	See 14.3	14.3	See 14.3.
485	Exhibit J - Standard Contract Provisions	Buy American	Domestic Component	24	C.0.	A component shall be considered to have been "mined, produced, or manufactured in the United States" regardless of its source, in fact, if the article, material or supply in which it is incorporated was manufactured in the United States and the component is of a class or kind determined by the Government to be not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.	Pay Application	CM does not comply with the sourcing requirements of the Buy America Act	Low	See 14.3	See 14.3	14.3	See 14.3.
486	Exhibit J - Standard Contract Provisions	Buy American	Foreign Material	24	D.0.	When steel materials are used in a project a minimal use of foreign steel is permitted. The cost of such materials cannot exceed on-tenth of one percent of the total project cost, or $2,500,000, whichever is greater.	Pay Application	CM does not comply with the sourcing requirements of the Buy America Act	Low	See 14.3	See 14.3	14.3	See 14.3.
487	Exhibit J - Standard Contract Provisions	Taxes	Federal Excise	25	A.0.	Materials, supplies and equipment are not subject to the Federal Manufacturer's Excise Tax, if they are furnished or used in connection with the Contract provided that title to such materials, supplies and equipment passes to the Government under the Contract. The Contractor shall in such cases furnish his subcontractors and suppliers with a purchaser's certificate in the form prescribed by the U.S. Internal Revenue Service.	Pay Application	Double-payment for tax exemption program	High	Memo, procedure, or other details pertaining to administration of the tax exempt purchases program	See 10.1		See 10.1

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
488	Exhibit J - Standard Contract Provisions	Taxes	Sales and Use Tax	25	B.0.	Materials which are physically incorporated as a permanent part of real property are not subject to Government Sales and Use Tax. The Contractor shall, when purchasing such materials, furnish his suppliers with a Contractor's Exempt Purchase Certificate in the form prescribed in the Sales and Use Tax Regulations of the Government. Where the Contractor, subcontractor or material man has already paid the Sales and Use Tax on material, as prescribed above, the Sales and Use Tax Regulations of the Government permit the Contractor, subcontractor or material man to deduct the sales or use tax on the purchase price of the same on his next monthly return as an adjustment. However, the Contractor, subcontractor or material man must satisfy the Chief Financial Officer for the Government that no sum in reimbursement of such tax was included in the Contract or else that the Government has received a credit under the Contract in an amount equal to such tax. Government Sales and Use Tax shall be paid on any material and supplies, including equipment rentals, which do not become a physical part of the finished project. [See Government of Columbia Sales and Use Tax Administration Ruling No. 6] (Or relevant local law). The Contractor, subcontractor, or material supplier shall provide proof of compliance with the provisions of [D.C. Law 9 260] (Or relevant local law), as amended, codified in [D C. Code46-103] Or relevant local law), Employer Contributions, prior to award. The Contractor, subcontractor, or material supplier shall provide proof of compliance with the applicable tax filing and licensing requirements set forth in [D.C. Code, Title 47, Taxation and	Pay Application	Double-payment for tax exemption program	High	Memo, procedure, or other details pertaining to administration of the tax exempt purchases program	See 10.1		See 10.1
489	Exhibit J - Standard Contract Provisions	Suspension of Work	Suspension of Work	26	A.0.	The Contracting Officer may order the Contractor in writing to suspend, delay or interrupt all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the Government. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed or interrupted by an act of the Contracting Officer in the administration of the Contract, or by his failure to act within the time specified in the Contract (or if no time is specified, within a reasonable time), an adjustment will be made for an increase in the cost of performance of the Contract (excluding profit) necessarily caused by such unreasonable suspension, delay or interruption and the Contract modified in writing accordingly. However, no adjustment will be made under this Article for any suspension, delay or interruption to the extent:	N/A	N/A	N/A	N/A	N/A	N/A	N/A
490	Exhibit J - Standard Contract Provisions	Suspension of Work	Suspension of Work	26	A.1.	That performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the contractor, or	N/A	N/A	N/A	N/A	N/A	N/A	N/A
491	Exhibit J - Standard Contract Provisions	Suspension of Work	Suspension of Work	26	A.2.	For which an equitable adjustment is provided or excluded under any other provision of the Contract.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
492	Exhibit J - Standard Contract Provisions	Suspension of Work	Suspension of Work	26	B.0.	No claim under this Article shall be allowed:	N/A	N/A	N/A	N/A	N/A	N/A	N/A
493	Exhibit J - Standard Contract Provisions	Suspension of Work	Suspension of Work	26	B.1.	For any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall no apply as to a claim resulting from a suspension order), and	N/A	N/A	N/A	N/A	N/A	N/A	N/A
494	Exhibit J - Standard Contract Provisions	Suspension of Work	Suspension of Work	26	B.2.	Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the Contract.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
495	Exhibit J - Standard Contract Provisions	Safety Program	General	27	A.0.	In order to provide safety controls for the protection of the life and health of Government and Contract employees and the general public; prevention of damage to property, materials, supplies, and equipment; and for avoidance of work interruptions in the performance of the Contract, the Contractor shall comply with all applicable Federal and local laws governing safety, health and sanitation including the Safety Standards, Rules and Regulations issued by the American National Standards, U. S. Department of Labor, U. S. Department of Health and Human Services, [D.C. Minimum Wage and Industrial Safety Board] (Or relevant local law) and the latest edition of "Manual of Uniform Traffic Control Devices" issued by the Federal Highway Administration. The Contractor shall also take or cause to be taken such additional safety measures as the Contracting Officer may determine to be reasonably necessary. The Contractor shall designate one person to be responsible for carrying out the Contractor's obligation under this Article. The Contractor shall maintain an accurate record of all accidents resulting in death, injury, occupational disease, and/or damage to property, materials, supplies, and equipment incident to work performed under the Contract. Copies of these reports shall be furnished to the Contracting Officer within two working days after occurrence. The Contracting Officer will notify the Contractor of any noncompliance with the foregoing provisions and the action to be taken. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor or his representative at the site of the work, shall be deemed sufficient for the purpose. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor. This Article is applicable to all subcontractors used under the Contract and compliance with these provisions by the subcontractors will be the responsibility of the Contractor. (In Contracts involving work of short duration or of non-hazardous character, the following Section B. will be deleted by Special Provision)	Reporting/ Deliverable	Safety monitoring program is not in place	Low	1. Safety program and submitted to DGS 2. Evidence of DGS monitoring process	1. Verify Owner obtained CM's safety program 2. Examine evidence of Owner monitoring		Monitoring of CM safety program, safety audits, etc.
496	Exhibit J - Standard Contract Provisions	Safety Program	Contractor's Program Submission	27	B.0.	Prior to commencement of the work, the Contractor shall:	Reporting/ Deliverable	Safety monitoring program is not in place	Low	See Exhibit J 27A	See Exhibit J 27A		See Exhibit J 27A
497	Exhibit J - Standard Contract Provisions	Safety Program	Contractor's Program Submission	27	B.1.	Submit in writing to the Contracting Officer for his approval his program for complying with this Article for accident prevention.	Reporting/ Deliverable	Safety monitoring program is not in place	Low	See Exhibit J 27A	See Exhibit J 27A		See Exhibit J 27A
498	Exhibit J - Standard Contract Provisions	Safety Program	Contractor's Program Submission	27	B.2.	Meet with the Contracting Officer's Safety Representative after submission of the above program to develop a mutual understanding relative to the administration of the overall safety program.	Reporting/ Deliverable	Safety monitoring program is not in place	Low	See Exhibit J 27A	See Exhibit J 27A		See Exhibit J 27A
499	Exhibit J - Standard Contract Provisions	Retention of Records	Retention of Records	28	0.0.	Unless otherwise provided in the Contract, or by applicable statute, the Contractor, from the effective date of Contract completion and for a period of three years after final settlement under the Contract, shall preserve and make available to the Government at all reasonable times at the office of the Contractor but without direct charge to the Government, all his books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under the Contract.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
500	Exhibit J - Standard Contract Provisions	Recovery of Debts Owed the Government	Recovery of Debts Owed the Government	29	0.0.	The Contractor hereby agrees that the Government may use all or any portion of any payment, consideration or refund due the Contractor under the Contract to satisfy, in whole or part, any debt due the Government.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
501	Exhibit J - Standard Contract Provisions	Administrative Liquid Damages	Administrative Liquid Damages	30	0.0.	In addition to any other liquidated damages provided for in the Contract, the Contractor hereby agrees that the Government may assess administrative liquidated damages for the Contractor's failure to submit when due any deliverable required by the Contract. Unless otherwise prescribed by the Contracting Officer, the rate of the administrative liquidated damages shall be $250 per day until the required deliverable is received and accepted by the Government. The Government's remedies for failure to comply with the Contract terms and conditions are cumulative and not exclusive. Nothing herein shall be construed to limit the Government's ability to terminate the Contractor for the failure to submit Contract deliverables when due.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
502	Exhibit J - Standard Contract Provisions	Force Majeure	Force Majeure	31	0.0.	If the Contractor, because of Force Majeure, is rendered wholly or partly unable to perform its obligations when due under this Contract, the Contractor may be excused from whatever performance is affected by the Force Majeure to the extent so affected. In order to be excused from its performance obligations under this Contract by reason of Force Majeure, within 72 hours of the occurrence or event, the Contractor must provide the Contracting Officer written notice of its inability to perform as well as a description of the force majeure and its effect on Contract performance. The Contracting Officer will have the right to cause the inspection of the work site to determine the validity of the Contractor's assertion of its inability to perform. If the Contracting Officer agrees that the Contractor is wholly or partly unable to perform its obligations under the Contract a decision will be issued indicating the extent to which the Contractor is excused from its performance obligations. In no event will the Contractor be entitled to money damages from the Government due to force majeure.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
503	Exhibit N - FF&E and Close-Out	Force Majeure	FF&E	N	A.0.	The Construction Manager shall be responsible for FF&E as set forth in this Exhibit: The Construction Manager shall be responsible for working with the Department to develop the requirements for new FF&E for the newly modernized portions of the building and providing such FF&E if such scope is included in the GMP Amendment. Existing FF&E shall be used to support swing space.	Pay Application	Double-payment for tax exemption program	High	Memo, procedure, or other details pertaining to administration of the tax exempt purchases program	See 10.1		See 10.1
504	Exhibit N - FF&E and Close-Out	Force Majeure	Close-Out	N	B.0.	The following deliverables are required during the Project's Close-Out. .1 a complete set of its Project files. .2 a complete set of product manuals (O&M), training videos, warranties, etc.. .3 as built record drawings. .4 attic stock and schedule. .5 equipment schedule. .6 proposed schedule of maintenance. .7 environmental, health & safety documents. .8 all applicable inspection certificates/permits (boiler, elevator, emergency evacuation plans, health inspection, etc.).	Closeout	Final payment is released before Owner is provided the required documents/ materials at project closeout	Low	See 5.14.3	See 5.14.3	10.12, 1.1, 5.14.3	See 5.14.3

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
505	Exhibit O - At-Risk Portion of Construction Management Fee	Exhibit O. At-Risk Portion Of Construction Management Fee	Exhibit O. At-Risk Portion Of Construction Management Fee	O	1.0.	If a GMP is agreed upon by the Construction Manager and the Department no later than March 13, 2019, the Construction Manager shall earn twenty five percent (25%) of the Award Fee Pool. For the avoidance of doubt, the parties acknowledge that execution and approval of the GMP Amendment by the Council by such date is not required to have achieved this metric. In the event this metric is achieved, then this portion of the Award Fee Pool shall be paid on a monthly basis in equal month installments over the then-remaining life of the Project through Substantial Completion.	Pay Application	At-risk portion of fee is released prematurely, or released without approval of the committee	N/A	See 10.1.0	Recommend that committee approves payment of at-risk portion	10.1.0	N/A
506	Exhibit O - At-Risk Portion of Construction Management Fee	Exhibit O. At-Risk Portion Of Construction Management Fee	Exhibit O. At-Risk Portion Of Construction Management Fee	O	2.0.	If a GMP is agreed upon by the Construction Manager and the Department is less than $70,800,000 the Construction Manager shall earn twenty five percent (25%) of the Award Fee Pool. In the event this metric is achieved, then this portion of the Award Fee Pool shall be paid on a monthly basis in equal month installments over the then-remaining life of the Project through Substantial Completion.	Pay Application	At-risk portion of fee is released prematurely, or released without approval of the committee	High	See 10.1.0	Recommend that committee approves payment of at-risk portion	10.1.0	N/A
507	Exhibit O - At-Risk Portion of Construction Management Fee	Exhibit O. At-Risk Portion Of Construction Management Fee	Exhibit O. At-Risk Portion Of Construction Management Fee	O	3.0.	The Construction Manager shall be eligible to earn up to twenty five percent (25%) of the Award Fee Pool based on the overall level of construction quality of the Project as delivered (such amount, the "Quality Incentive Amount"). Entitlement to this portion of the Award Fee Pool shall be evaluated and compensated on a monthly basis beginning at 50% completion and calculated pro rata from 50% completion through Substantial Completion as set forth below. The evaluation of the Construction Quality At-Risk Portion will coincide with the review and approval of each application for payment submitted by the Design Builder starting at 50% completion of the Work and continuing through the completion of the construction phase. An independent 3rd party will utilize a definitive checklist to administer the QC inspections. At the end of each rating period the 3rd party will provide the Owner's Program Manager the results for the rating period. The construction quality rating period for each review will coincide with each subsequent month. The Owner's Program Manager will review and validate the performance and submit to the Award Fee Evaluation Committee at the end of each month for their approval. The following criteria will be used to measure the Quality performance of the Design Builder. • Excellent - no open non-compliance notices at the end of the rating period; and review of the Contractor Quality Control documentation show no open deficiencies from the prior month rating period. • Good - no open non-compliance notices at the end of the rating period; and review of the Contractor Quality Control documentation show less than 5 deficiencies from the prior month rating period. • Fair - Up to one (1) open non-compliance notice at the end of the rating period; and review of the Contractor Quality Control documentation show less than 10 deficiencies from the prior month rating period. • Poor - Up to two (2) open non-compliance notices at the end of the rating period; and review of the Contractor Quality Control documentation show less than 15 deficiencies from the prior month rating period. Based on the Contractor's Quality Control (as defined in the above criteria) a rating will be assigned by the 3rd party QC manager. The four performance incentive rating levels are: • + 100% for excellent performance during the rating period • + 66% for good performance during the rating period • + 33% for fair good performance during the rating period • + 0% for poor performance during the rating period If the results of the Construction Quality Report for the rating period are poor, then the Award Fee Evaluation Committee shall award Zero percent (0%) of the monthly portion of the Quality Incentive Amount; if the results of the Construction Quality Report for the rating period are fair (33%), then the Award Fee Evaluation Committee shall award one third (1/3) of the monthly portion of the Quality Incentive Amount; if the results of the Construction Quality Report for the rating period are good (66%), then the Award Fee Evaluation Committee shall two thirds (2/3) of the monthly portion of the Quality Incentive Amount; and if the results of the Construction Quality Report for the rating period was excellent, then the Award Fee Evaluation Committee shall award all of the monthly portion of the Quality Incentive Amount.	Pay Application	At-risk portion of fee is released prematurely, or released without approval of the committee	High	Checklists used to compute monthly at-risk fee awards (after 50% completion)	Recommend that committee approves payment of at-risk portion	10.1.0	N/A
508	Exhibit O - At-Risk Portion of Construction Management Fee	Exhibit O. At-Risk Portion Of Construction Management Fee	Exhibit O. At-Risk Portion Of Construction Management Fee	O	4.0.	If the Construction Manager achieves Substantial Completion of the work on or before the Substantial Completion Date, as may be adjusted in accordance with the Contract Documents, and the final amount due to the Construction Manager (inclusive of the Preconstruction Fee the earned portions of the Award Fee Pool, the Base Construction Management Fee and the Cost of General Conditions) is less than One Hundred Three percent (103%) or the GMP as originally established (such amount, the "On-Budget Threshold"), the Construction Manager shall earn twenty five percent (25%) of the Award Fee Pool; provided, however, any increases to the GMP which result from circumstances beyond the reasonable control of the Construction Manager shall not be considered in determining whether the On Budget Threshold has been exceeded. Entitlement to this portion of the Award Fee Pool shall be based on the final outcome of the Project. For the avoidance of doubt, the Construction Manager shall not be entitled to earn such portion of the Award Fee Pool even if the failure to deliver on-time was caused by DCPS, the Department, delays resulting from the permitting or zoning process, or an event of Force Majeure. In the event this metric is achieved, then this portion of the Award Fee Pool shall be paid in the first progress payment that is due after Substantial Completion of the Project occurs.	Pay Application	At-risk portion of fee is released prematurely, or released without approval of the committee	High	See 10.1.0	Recommend that committee approves payment of at-risk portion	10.1.0	N/A
509	GMP Amendment	Guaranteed Maximum Price	Scope	1	0.0.	THIS GUARANTEED MAXIMUM PRICE AMENDMENT ("Amendment") is entered into by and between the DISTRICT OF COLUMBIA GOVERNMENT, acting by and through its DEPARTMENT OF GENERAL SERVICES (the "Department") and TURNER CONSTRUCTION COMPANY, (the "Construction Manager") pursuant to the Agreement, dated January 30, 2019, between the District of Columbia government, by and through the Department and the Construction Manager, for the modernization of the ELIOT HINE MIDDLE SCHOOL and to establish a Guaranteed Maximum Price and Contract Time for the Work as set forth below.	N/A	N/A	N/A	N/A	N/A		N/A
510	GMP Amendment	Guaranteed Maximum Price	Guaranteed Maximum Price	1	1.0.	Subject to additions and deductions which may be made only in accordance with the Agreement, the Construction Manager represents, warrants and guarantees to the Department that the total maximum cost to be paid by the Department for Construction Manager's complete performance under the Agreement, including, but not limited to, Final Completion of all Work, all services of Construction Manager under the Agreement, and all fees, compensation and reimbursements to Construction Manager, shall not exceed the total amount of Seventy Three Million One Hundred Eighty Eight Thousand Six Hundred and Eight Dollars ($73,188,608) ("Guaranteed Maximum Price"). Costs which would cause the Guaranteed Maximum Price (as may be adjusted pursuant to the Contract Documents) to be exceeded shall be paid by the Construction Manager without reimbursement by the Department.	Pay Application	Billings exceed executed agreement/ change order amount	High	See 9.1	See 9.1	9.1	See 9.1
511	GMP Amendment	Guaranteed Maximum Price	Guaranteed Maximum Price Components	1	2.0.	The Guaranteed Maximum Price is comprised of the maximum amount payable by the Department for:	Pay Application	Billings exceed executed agreement/ change order amount	High	See 9.1	See 9.1	9.1	See 9.1
512	GMP Amendment	Guaranteed Maximum Price	Guaranteed Maximum Price Components	1	2.1.	the Cost of the Work for full and complete performance of the Work in strict accordance with the Contract Documents;	Pay Application	Billings exceed executed agreement/ change order amount	High	See 9.1	See 9.1	9.1	See 9.1
513	GMP Amendment	Guaranteed Maximum Price	Guaranteed Maximum Price Components	1	2.2.	a Pre-Construction Fee for the Construction Manager, as defined in the Agreement, in the amount of Two Hundred Thirty Eight Thousand Nine Hundred Fifty Dollars ($238,950) plus an additional One Hundred Thousand Dollars ($100,000) for a total of Three Hundred Thirty-Eight Thousand Nine Hundred Fifty and Zero Cents ($338,950) for preconstruction services;	Pay Application	Billings exceed executed agreement/ change order amount	High	See 9.1	See 9.1	9.1	See 9.1
514	GMP Amendment	Guaranteed Maximum Price	Guaranteed Maximum Price Components	1	2.3.	a Construction Management Fee for the Construction Manager, as defined in the Agreement, in the amount of Two Million Six Hundred Fifty-Five Thousand Dollars ($2,655,000);	Pay Application	Billings exceed executed agreement/ change order amount	High	See 9.1	See 9.1	9.1	See 9.1
515	GMP Amendment	Guaranteed Maximum Price	Guaranteed Maximum Price Components	1	2.4.	a Maximum Cost of General Conditions, as defined in the Agreement, in the amount of Two Million Nine Hundred Forty Six Thousand Three Hundred Fifty Seven Dollars ($2,946,357).	General Conditions	Billings exceed executed agreement/ change order amount	High	See 7.1.1	See 7.1.1	7.1.1	See 7.1.1
516	GMP Amendment	Guaranteed Maximum Price	Basis for the GMP	1	3.0.	The GMP is for the performance of the Work in accordance with the Contract Documents and is based upon the documents listed and attached to this Amendment and marked Exhibits 1 through 10, as follows:	N/A	N/A	N/A	GMP Exhibits 1-10	6.0.0		N/A
517	GMP Amendment	Guaranteed Maximum Price	Basis for the GMP	1	3.1.	Exhibit 1: The proposed Guaranteed Maximum Price, including a statement of the summary and detailed cost estimate organized by trade categories, allowances, Contingency, and other items and the fee that comprise the Guaranteed Maximum Price.	N/A	N/A	N/A	GMP Exhibits 1-10	6.1.0		N/A
518	GMP Amendment	Guaranteed Maximum Price	Basis for the GMP	1	3.2.	Exhibit 2: A list of Unit Prices and Allowance items as well as a statement of their basis as well as Alternates and Value Engineering.	N/A	N/A	N/A	GMP Exhibits 1-10	6.2.0		N/A
519	GMP Amendment	Guaranteed Maximum Price	Basis for the GMP	1	3.3.	Exhibit 3: Assumptions and clarifications made in preparing the Guaranteed Maximum Price, noting in particular any exclusions (the "Assumptions and Clarifications"). In the event of any conflict between the GMP Basis Documents and the Assumptions and Clarifications, the order of precedence in Section 1. 7 of the Agreement shall govern.	N/A	N/A	N/A	GMP Exhibits 1-10	6.3.0		N/A
520	GMP Amendment	Guaranteed Maximum Price	Basis for the GMP	1	3.4.	Exhibit 4: List of Drawings, Specifications, addenda and General, Supplementary and other Conditions of the Agreement on which the Guaranteed Maximum Price is based (the "GMP Basis Documents").	N/A	N/A	N/A	GMP Exhibits 1-10	6.4.0		N/A
521	GMP Amendment	Guaranteed Maximum Price	Basis for the GMP	1	3.5.	Exhibit 5: Not Used.	N/A	N/A	N/A	GMP Exhibits 1-10	N/A		N/A
522	GMP Amendment	Guaranteed Maximum Price	Basis for the GMP	1	3.6.	Exhibit 6: Buy American Act waiver requirements upon which the Guaranteed Maximum Price is based.	N/A	N/A	N/A	GMP Exhibits 1-10	6.6.0		N/A
523	GMP Amendment	Guaranteed Maximum Price	Basis for the GMP	1	3.7.	Exhibit 7: Sole Source and Long Lead Items upon which the Guaranteed Maximum Price is based.	N/A	N/A	N/A	GMP Exhibits 1-10	6.7.0		N/A
524	GMP Amendment	Guaranteed Maximum Price	Basis for the GMP	1	3.8.	Exhibit 8: A Construction Phase Schedule which shall include, but not be limited to, the Substantial and Final Completion Dates, upon which the proposed Guaranteed Maximum Price is based, and a schedule of the Construction Documents issuance dates upon which the Substantial and Final Completion Dates are based (the "Project Schedule") and a logistic plan.	N/A	N/A	N/A	GMP Exhibits 1-10			N/A
525	GMP Amendment	Guaranteed Maximum Price	Basis for the GMP	1	3.9.	Exhibit 9: An LSDBE Utilization Plan setting forth the names and estimated dollar volume of the work that will be perform by small, local and disadvantaged business enterprises, as certified by the Department of Small and Local Business Development, upon which the GMP is based.	N/A	N/A	N/A	GMP Exhibits 1-10	N/A		N/A
526	GMP Amendment	Guaranteed Maximum Price	Basis for the GMP	1	3.10.	Exhibit 10: Additional information upon which the Guaranteed Maximum Price is based.	N/A	N/A	N/A	GMP Exhibits 1-10	N/A		N/A

Eliot Hine Middle School
RSM Risk Report
February 14, 2020
Comprehensive Risk Assessment

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
527	GMP Amendment	Guaranteed Maximum Price	Incomplete Drawing and Specifications	1	4.0.	Construction Manager and the Department acknowledge that the Drawings and Specifications have reached the level of approximately 100% complete construction documents. The Construction Manager has been actively involved in the design process and hereby represents that it has a sufficient understanding of the Project to agree to a Guaranteed Maximum Price to Fully Complete the Project. The Construction Manager hereby acknowledges that the GMP Basis Documents and the Assumptions and Clarifications provide sufficient detail and information to provide a firm Guaranteed Maximum Price and that the Guaranteed Maximum Price established herein is intended to represent the Construction Manager's offer to Fully Complete the Project.	N/A	N/A	N/A	N/A	N/A		N/A
528	GMP Amendment	Guaranteed Maximum Price	Design Intent; Inferable Work	1	5.0.	Construction Manager agrees that the Guaranteed Maximum Price is based on the current state. of the design, which represents approximately one hundred percent complete construction documents. The Assumptions and Clarifications are intended to further define the scope of Work. The Construction Manager has included within the Guaranteed Maximum Price sufficient amounts to cover aspects of the Work that are not shown on the GMP Basis Documents but are reasonably inferable therefrom and consistent with the Assumptions and Clarifications.	N/A	N/A	N/A	N/A	N/A		N/A
529	GMP Amendment	Guaranteed Maximum Price	Cost Overruns	1	6.0.	Subject to additions or deductions which may be made in accordance with the Agreement, the Construction Manager shall be solely liable and responsible for and shall pay any and all costs, fees and other expenditures in excess of the Guaranteed Maximum Price for and/or relating to the Work, without entitlement to reimbursement from the Department. Construction Manager shall not be entitled to any fee, payment, compensation or reimbursement under this Agreement or relating to the Work or Project other than as expressly provided in the Agreement. Nothing herein shall be construed to create a line item guarantee on any division or subset of the Work other than the Maximum Cost of General Conditions.	N/A	N/A	N/A	N/A	N/A		N/A
530	GMP Amendment	Guaranteed Maximum Price	Allowances	1	7.0.	The Guaranteed Maximum Price includes specific "Unit Price Allowance Amounts" for certain items as shown on Exhibit 2 and budgeted in the Guaranteed Maximum Price ("Allowance Items"). The only Allowance Items shall be those specifically identified as such in Exhibit 2. The Allowance Amounts represent all Costs of the Work of the Allowance Items, including, without limitation, costs of materials, labor, handling, transportation, loading and unloading and installation, as determined by Construction Manager.	Allowances	Payments are made for unapproved allowance amounts	Moderate	All pay applications All basis for allocated amounts Exhibit 2	Verify amounts billed for allowances are acceptable as described in Exhibit 2		Review and approve each pay application for proper support and accuracy.
531	GMP Amendment	Intent, Interpretation and Correlation	Intent of the Agreement	2	1.0.	The intent of the Agreement is for the Construction Manager to perform and supply, and the Department hereby engages Construction Manager to and Construction Manager hereby agrees to perform and supply, the Work, including all necessary scheduling, procurement, supervision, construction, and construction management services and supply all necessary labor, materials, equipment and related work and services necessary to fully complete the Work and obtain the intended results of the Contract Documents, including, but not limited to the requirements of the Project Schedule and the Guaranteed Maximum Price requirements set forth in Article 1 above. The enumeration of particular items in the Specifications and/or Drawings shall not be construed to exclude other items. The Contract Documents are complementary, and what is required by any one of the Contract Documents (including either a Drawing or Specification) as being necessary to produce the intended results shall be binding and required as a part of the Work as if required by all Contract Documents.	N/A	N/A	N/A	N/A	N/A		N/A
532	GMP Amendment	Intent, Interpretation and Correlation	Construction Manager's Compliance with Contract Documents.	2	2.0.	In the event of any conflict among the Contract Documents, the order of precedence established in Section 1. 7 of the Agreement shall govern. Without limiting the generality of the foregoing, the Construction Manager hereby agrees as follows:	Other	Contradicting contract terms	Low	See 1.7	See 1.7	1.7	See 1.7
533	GMP Amendment	Intent, Interpretation and Correlation	Construction Manager's Compliance with Contract Documents.	2	2.1.	The failure of the Department to insist in any one or more instances upon a strict compliance with any provision of this Agreement, or to exercise any option herein conferred, shall not be construed as a waiver or relinquishment of the Department's right thereafter to require compliance with such provision of this Agreement, or as being a waiver of the Department's right thereafter to exercise such option, and such provision or option will remain in full force and effect.	N/A	N/A	N/A	N/A	N/A		N/A
534	GMP Amendment	Intent, Interpretation and Correlation	Construction Manager's Compliance with Contract Documents.	2	2.2.	If there is any inconsistency in the Drawings or any conflict between the Drawings and Specifications, the order of precedence in Section 1.7 of the Agreement shall govern.	Other	Contradicting contract terms	Low	See 1.7	See 1.7	1.7	See 1.7
535	GMP Amendment	Intent, Interpretation and Correlation	Construction Manager's Compliance with Contract Documents.	2	2.3.	Construction Manager shall be responsible for dividing the Work among the appropriate Subcontractors and Vendors. No claim will be entertained by the Department based upon the organization or arrangement of the Specifications and/or the Drawings into areas, sections, subsections or trade disciplines.	N/A	N/A	N/A	N/A	N/A		N/A
536	GMP Amendment	Intent, Interpretation and Correlation	Construction Manager's Compliance with Contract Documents.	2	2.4.	Detail drawings shall take precedence over scale drawings, and figured dimensions on the Drawings shall govern the setting out of the Work.	Other	Contradicting contract terms	Low	See 1.7	See 1.7	1.7	See 1.7
537	GMP Amendment	Intent, Interpretation and Correlation	Construction Manager's Compliance with Contract Documents.	2	2.5.	Unless the Specifications expressly state otherwise, references to documents and standards of professional organizations shall mean the latest editions published prior to the commencement of the Period of Performance.	N/A	Contradicting contract terms	Low	See 1.7	See 1.7	1.7	See 1.7
538	GMP Amendment	Intent, Interpretation and Correlation	Construction Manager's Compliance with Contract Documents.	2	2.6.	Technical words, abbreviations and acronyms in the Contract Documents shall be used and interpreted in accordance with customary usage in the construction industry.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
539	GMP Amendment	Intent, Interpretation and Correlation	Construction Manager's Compliance with Contract Documents.	2	2.7.	Whenever consent, permission or approval is required from any party pursuant to the provisions of the Contract Documents, such consent, permission or approval shall, unless expressly provided otherwise in this Agreement, be given or obtained, as applicable, in writing.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
540	GMP Amendment	Other Provisions	Construction Manager's Responsibilities	3	1.0.	The Construction Manager has been an active participant in the design process. Given such participation, the Construction Manager represents that it is familiar with the scope and quality of those aspects of the Project that have not yet been fully designed, and has taken such scope and quality matters into consideration in preparing each component of the Guaranteed Maximum Price. The Construction Manager agrees to work with the Department in managing the construction. It is recognized by the Construction Manager and the Department that the scope of the Guaranteed Maximum Price may include Work not expressly indicated on the Contract Documents, but which is reasonably inferable from the Contract Documents, and such Work shall be performed without any increase in the Guaranteed Maximum Price or extension of Contract Time, except if and to the extent otherwise expressly provided in the Contract Documents.	Change Order	Contract changes are not made through the change order process	High	See 17.2	See 17.2	17.2	See 17.2
541	GMP Amendment	Other Provisions	Owner Requested Allowances	3	2.1.	Owner Controlled Allowance. The parties acknowledge that the GMP includes an allowance in the amount One Million Dollars ($1,000,000) for additional work outside the Construction Manager's scope as may be directed by the Department (such allowance, the "Owner-Controlled Allowance"). To the extent the Owner directs the Construction Manager to charge the costs of any additional work to the Owner-Controlled Allowance, the Construction Manager shall be entitled to charge all Costs of the Work, both direct and indirect, as well as the Construction Manager's Construction Management Fee at the rate set forth in Section 8.6.1.3 of the Agreement against the Owner-Controlled Allowance.	Allowances	Payments are made for unapproved allowance amounts	High	Pay Applications	Validate that appropriate supporting documentation is included as allowance items are billed		Review of allowance estimates and detailed supporting documents for amounts billed against allowance items
542	GMP Amendment	Other Provisions	Owner Requested Allowances	3	2.2.	2019 Swing Space Allowance. The parties acknowledge that the GMP includes an allowance in the amount Two Million Ninety Thousand Dollars ($2,090,000) for work associated with swing space beyond that performed pursuant to the Letter Contract as may be directed by the Department (such allowance, the "2019 Swing Space Allowance"). To the extent the Owner directs the Construction Manager to perform any such swing space work to be charged against the 2019 Swing Space Allowance, the Construction Manager shall be entitled to charge all Costs of the Work, both direct and indirect, as well as the Construction Manager's Construction Management Fee at the rate set forth in Section 8.6.1.3 of the Agreement against the 2019 Swing Space Allowance.	Allowances	Payments are made for unapproved allowance amounts	High	Pay Applications	Validate that appropriate supporting documentation is included as allowance items are billed		Review of allowance estimates and detailed supporting documents for amounts billed against allowance items
543	GMP Amendment	Other Provisions	Owner Requested Allowances	3	2.3.	For the avoidance of doubt, in order to furnish the bonds covering the values of the Owner-Controlled Allowance and the 2019 Swing Space Allowance as required by Section 11.2 of the Agreement, the Construction Manager shall be entitled upon execution of this Amendment to draw from the Owner-Controlled Allowance and the 2019 Swing Space Allowance amounts for bonds calculated as set forth in Section 11.3 of the Agreement and the Construction Management Fee associated with such bond amounts.	Allowances	CM payments in advance of actual costs incurred	Low	Pay Applications	Recalculate bond costs in accordance with 11.2		Review of allowance estimates and detailed supporting documents for amounts billed against allowance items
544	GMP Amendment	Other Provisions	Builder's Risk Insurance	3	3.0.	As contemplated in Article 11 of the Agreement, the GMP is based on the Department binding and maintaining builder's risk insurance acceptable to the Construction Manager. The parties acknowledge that the binder for policy furnished to the Construction Manager provides for deductibles in excess of the Ten Thousand Dollar deductible stipulated in Article 11 of the Agreement. Accordingly, in the event of any claim on the builder's risk policy, the Department shall be responsible for paying the difference between the actual applicable deductible and Ten Thousand Dollars ($10,000).	Insurance	Insurance deductibles are not paid by the appropriate party	Low	N/A	As required, validate that insurance deductibles are paid by the appropriate party		N/A
545	GMP Amendment	Other Provisions	Entitlement to Portions of At-Risk Portion of Construction Management Fee	3	4.0.	For the avoidance of doubt, the parties acknowledge that the GMP set forth herein exceeds the target set forth in subpart .2 of Exhibit O to the Agreement only as a result of the Owner-Controlled Allowance and the 2019 Swing Space Allowance which the Owner has requested be included in the GMP for its convenience, and that notwithstanding the date of execution of this Amendment, that the parties have agreed on a GMP by the date set forth in subpart .1 of Exhibit O to the Agreement. As such, the Owner acknowledges and agrees that the Construction Manager has earned the portions of the Award Fee Pool outlined in subparts .1 and .2 of Exhibit O to the Agreement, and the Construction Manager shall be entitled to bill for such portions in accordance with Exhibit Oto the Agreement and Section 11.1 of the Agreement.	Pay Application	At-risk portion of fee is released prematurely, or released without approval of the committee	High	N/A	1. Validate committee approval of at-risk portion of fee prior to final payment, or validate that at-risk portion is removed from final payment if not approved.	Exhibit O	
546	GMP Amendment	Other Provisions	Alternates	3	5.0.	Exhibit 2 includes a series of Alternates which the Owner may elect to exercise. In the event the Department desires to exercise any of the Alternates, the Construction Manager must receive a fully executed copy of the Change Order exercising such alternate no later than the date identified for such alternate in Exhibit 2 (each such date, the applicable "Sunset Date").	Change Order	Billing in excess of contract amount	Moderate	See 17.2	See 17.2	17.2	See 17.2
547	GMP Amendment	Miscellaneous Provisions	Prior Agreement Unaffected	4	1.0.	Except as expressly agreed to herein, all of the terms, conditions, representations and warranties set forth in the Agreement shall remain unaffected and in full force and effect.	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Ref. No.	Contract Doc	Article Title	Section Title	Article	Subsection	Contract Provision Language	Risk Category	Risk	Risk Rating	Document Request List	Test Step	Related Contract Sections	Key DGS Management Controls
548	GMP Amendment	Miscellaneous Provisions	Integrated Agreement	4	2.0.	This Amendment and any attachment hereto set forth the entire agreement and understanding of the parties regarding the transactions contemplated hereby and supersede all prior oral and written agreements, arrangements and understandings relating to the subject matter hereof. There are no oral or written agreements or understandings, representations or warranties among the parties other than those set forth herein.	Other	Contract language contradicts or supersedes other language in the agreement, and precedence is given to the wrong document	Low	See 1.7	See 1.7	1.7, 14.18, Exhibit J 2.2 and 2.3, GMP 4.2	
549	GMP Amendment	Miscellaneous Provisions	Counterparts	4	3.0.	This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall be considered one and the same instrument.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
550	GMP Amendment	Miscellaneous Provisions	Construction	4	4.0.	This Amendment shall be construed fairly as to all parties and not in favor of or against any party, regardless of which party prepared the Amendment.	N/A	N/A	N/A	N/A	N/A	N/A	N/A

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Agency Comments

On September 18, 2020, we sent a draft copy of this report to the Department of General Services (DGS) for review and written comment. DGS responded with comments on October 2, 2020. Agency comments are included here in their entirety, followed by ODCA's response.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES

October 2, 2020

Kathleen Patterson, Auditor
Office of the D.C. Auditor
717 14th Street NW, Suite 900
Washington, DC 20005

Re: Department of General Services' ("DGS") Response to the Office of the District of Columbia Auditor ("ODCA") draft report dated September 18, 2020 and entitled: *"Improvements to School Modernization Contract Administration Could Save District Money (the "Draft Report")."*

Dear Ms. Patterson:

Thank you again for the opportunity for DGS to provide comments to the above Draft Report. Again, we value the opportunity to review and improve DGS' implementation of the District's school modernization program. We provide the following responses to the specific ODCA recommendations outlined in the Draft Report:

RECOMMENDATION #1

Turner did not exclude its own subsidiary, Turner Logistics, from the calculation of Subcontractor Default Insurance (SDI) ($70,070). During final project accounting and closeout, DGS should reconcile SDI costs and request a credit of $70,070 if Turner Logistics is included in the subcontractor listing.

RESPONSE:

DGS' Capital Construction Services Division ("CCSD") will reconcile these costs as part of the final financial closeout of the project.

RECOMMENDATION #2

The General Conditions included transactions for disallowed costs ($14,000) and transactions without records to show that they were related to the project ($919). DGS should request a credit of $14,919 for the disallowed and unsupported costs.

RESPONSE:

CCSD will reconcile these costs as part of the final financial closeout of the project.

RECOMMENDATION #3

DGS paid Turner for workers not initially listed on the certified payroll and without reconciling the certified payroll to the pay application. In future projects, DGS should reconcile the labor costs submitted with the pay application to the certified payroll.

RESPONSE:

CCSD will incorporate the recommendation to reconcile rates as part of our project kick-off process to ensure appropriate rates are being billed. CCSD will also update its project management guidelines, which are being revised in Fiscal Year 2021 ("FY21").

RECOMMENDATION #4

Some labor costs including positions, employees, hourly rates, and work performed before the Notice to Proceed was issued do not align with the contract terms. In future projects, DGS should require the construction manager to obtain written pre-approval before billing for items that are not included in the contract documents.

DGS RESPONSE:

CCSD will ensure that our project managers are aware of the required process and will implement immediately.

RECOMMENDATION #5

DGS accepted and paid for staff fringe benefits costs, which usually are restricted or not allowed in this project type, and which the contract did not explicitly define. In future projects, DGS should specify allowable fringe benefit costs in the contract.

DGS RESPONSE:

In FY21, DGS will revise its contract language to qualify "fully burdened" staff rates, and to delineate between fringe costs allowed as a cost of work versus those costs which would be considered disallowed.

RECOMMENDATION #6

As of the testing scope period, the local labor employed on the project was only 39%; 51% is the amount required. The Department of Employment Services ("DOES") should verify compliance with local labor requirements.

DGS RESPONSE:

As part of its closeout process, DGS will continue confirm with DOES that compliance with local labor requirements has been achieved with respect to the project in its entirety.

RECOMMENDATION #7

In the closeout for this project, DGS should reconcile the contingency.

DGS RESPONSE:

As part of its closeout process, DGS will reconcile the contract's contingency.

CONCLUSION:

DGS welcomes the recommendations from the ODCA and the opportunity to improve upon the school modernization program. DGS and DCPS have already implemented various improvements to the school modernization program to enhance planning, accountability and cost controls. We share the common goal of making improvements to the execution of the school modernization program and are taking strides to improve the existing program. Please do not hesitate to contact me at 202.727.2800 if you have questions or require additional information.

Sincerely,

Keith A. Anderson
Director

cc: Xavier Beltran, General Counsel
Yohance Fuller, Chief Operating Officer
Paul Blackman, Jr., Deputy Director Capital Construction
Brian Butler, Executive Program Manager
George Lewis, Chief Procurement Officer

ODCA Response to Agency Comments

We appreciate the response to the draft report provided by the Department of General Services (DGS), including the spirit of cooperation embodied in the comment from Director Keith Anderson that "DGS welcomes the recommendations from the ODCA and the opportunity to improve upon the school modernization program."

We are pleased that DGS concurred with all our recommendations and appreciate its agreement to implement them within the next year: some as it revises internal documents in fiscal year 2021, some during the project close out, and one immediately.

Director Anderson's comments describe DGS and DCPS as sharing "a common goal of making improvements to the execution of the school modernization program." It is a goal that ODCA shares, too, and we are gratified by DGS's willingness to put our recommendations into effect.

About ODCA

The mission of the Office of the District of Columbia Auditor (ODCA) is to support the Council of the District of Columbia by making sound recommendations that improve the effectiveness, efficiency, and accountability of the District government.

To fulfill our mission, we conduct performance audits, non-audit reviews, and revenue certifications. The residents of the District of Columbia are one of our primary customers and we strive to keep the residents of the District of Columbia informed on how their government is operating and how their tax money is being spent.

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