

DRAFT AIA® Document A221™ – 2018

Work Order for use with Master Agreement Between Owner and Contractor

WORK ORDER number « » made as of the « » day of « » in the year « »
(In words, indicate day, month, and year.)

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

Ector County Independent School District
802 N. Sam Houston
Odessa, Texas 79761

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

« »
« »
« »
« »

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

« »
« »
« »

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

Parkhill
1700 W Wall Street, Suite 100
Midland, Texas 79705
432.697.1447
www.parkhill.com

THE CONTRACT

This Work Order, together with the Contract Documents enumerated herein, including the Master Agreement between Owner and Contractor dated the « » day of « » in the year « » form the Contract.

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

This document provides the Contractor's scope of Work, and related information, and is intended to be used with AIA Document A121™-2018, Standard Form of Master Agreement Between Owner and Contractor where Work is provided under multiple Work Orders.

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1	THE WORK OF THIS WORK ORDER
2	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
3	CONTRACT SUM
4	PAYMENTS
5	INSURANCE AND BONDS
6	PARTY REPRESENTATIVES
7	ENUMERATION OF CONTRACT DOCUMENTS

The Contractor shall fully execute the Work described in the Contract Documents enumerated in Article 7 of this Work Order, and any modifications issued after execution of this Work Order, except as specifically indicated in the Contract Documents to be the responsibility of others.

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

[« x »] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

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

§ 2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall diligently prosecute and achieve Substantial Completion of the entire Work:
(Check the appropriate box and complete the necessary information.)

[« »] By the following date: « »

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

Portion of Work	Substantial Completion Date

§ 2.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 2.3, liquidated damages, if any, shall be assessed as set forth in Section 3.6.

ARTICLE 3 CONTRACT SUM

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

(Check the appropriate box.)

- ☒ Stipulated Sum, in accordance with Section 3.2 below
- ☐ Cost of the Work plus the Contractor's Fee, in accordance with Section 3.3 below
- ☐ Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 3.4 below

(Based on the selection above, complete Section 3.2, 3.3, 3.4 or 3.5 below.)

§ 3.1.1 The Contract Sum contains an Owner's Contingency in the amount of \$_____ (10% of Construction Cost). This contingency is for the sole use of the Owner to be used for changes in the scope of the Work and for the betterment of the Project. Owner's authorized representative may approve any expenditure from Owner's Contingency without further Board of Trustees approval. If the Owner's Contingency is not expended or not fully expended, then any unused portion shall belong to the Owner and shall be credited to the Owner in calculating final payment.

§ 3.2 Stipulated Sum

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

§ 3.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Work Order, attach a schedule of such other alternates showing the change in the Stipulated Sum for each and the deadline by which the alternate must be accepted.)

☐

§ 3.2.3 Unit prices, if any:

(Identify the item and state the unit price and any applicable quantity limitations.)

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

§ 3.2.4 Allowances, if any, included in the Stipulated Sum:

(Identify each allowance.)

Item	Price

§ 3.3 Cost of the Work plus Contractor's Fee

§ 3.3.1 The Cost of the Work is as defined in AIA Document A121™– 2018 Exhibit A, Determination of the Cost of the Work.

§ 3.3.1.1 The following costs are subject to the Owner's prior approval:

« »

§ 3.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the fee for changes in the Work.)

« »

§ 3.4 Cost of the Work plus Contractor's Fee with a Guaranteed Maximum Price

§ 3.4.1 The Cost of the Work is as defined in Exhibit A, Determination of the Cost of the Work.

§ 3.4.1.1 The following costs are subject to the Owner's prior approval:

« »

§ 3.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the fee for changes in the Work.)

« »

§ 3.4.3 Guaranteed Maximum Price

§ 3.4.3.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed « » (\$ « »), subject to additions and deductions by changes in the Work as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

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

« »

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

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

« »

§ 3.4.3.3 Unit Prices, if any:

(Identify the item and state the unit price and any applicable quantity limitations.)

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

§ 3.4.3.4 Allowances, if any, included in the Guaranteed Maximum Price:

(Identify each allowance.)

Item	Price

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

« »

§ 3.4.3.6 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents

and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.4.3.7 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 3.4.3.5. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 3.4.3.5 and the revised Contract Documents.

§ 3.6 Liquidated damages, if any: It is specifically understood and agreed by and between Owner and Contractor that time is of the essence in the Substantial Completion and Final Completion of the Project, and Owner shall sustain actual and direct damages as a result of Contractor's failure, neglect or refusal to achieve said deadlines. The Contractor is subject to liquidated damages, as specified in this Agreement, if the Work is not completed by the date of Substantial Completion or the date of Final Completion. The Owner may deduct from the Final Payment made to the Contractor the sum of \$ 500 per day for each and every additional calendar day beyond the agreed date of Substantial Completion. Contractor and Owner agree that the amount of liquidated damages for each calendar day Final Completion is delayed beyond the date set for Final Completion shall be the sum of \$ 500 per day for each and every additional calendar day beyond the agreed date of Substantial Completion.

§ 4.5.1 Substantial Completion. Time is of the essence in all phases of the Work. It is specifically understood and agreed by and between Owner and Contractor that time is of the essence in the Substantial Completion of the Project and Owner shall sustain damages as a result of Contractor's failure, neglect or refusal to achieve said deadlines. Such damages are, and will continue to be, impracticable and extremely difficult to determine. Execution of this Agreement under these specifications shall constitute agreement by Owner and Contractor that the amounts stated below are the minimum value of the costs and damages caused by failure of Contractor to complete the Work within the allotted or agreed extended times of Substantial Completion, that such sums are liquidated damages and shall not be construed as a penalty, and that such sums may be deducted from payments due Contractor if such delay occurs. It is expressly understood that the said sum per day is agreed upon as a fair estimate of the pecuniary damages which will be sustained by the Owner in the event that the Work is not completed within the agreed time, or within the agreed extended time, if any, otherwise provided for herein. Said sum shall be considered as liquidated damages only and in no sense shall be considered a penalty, said damages being caused by, but not limited to, additional compensation for personnel, attorneys fees, architectural fees, engineering fees, program management fees, inspection fees, storage costs, food service costs, transportation costs, utilities costs, costs of temporary facilities, loss of interest on money, and other increased costs, all of which are difficult to exactly ascertain. Failure to complete the Work within the designated or agreed extended dates of Substantial Completion, shall be construed as a breach of this Agreement. It is expressly agreed as a part of the consideration inducing the Owner to execute this Agreement that the Owner may deduct from any Payment made to the Contractor a sum equal to \$500 per day for each and every additional calendar day beyond the agreed date of Substantial Completion.

§ 4.5.2 Final Completion. In addition, timely Final Completion is an essential condition of this Agreement. Contractor agrees to achieve Final Completion of the Agreement within 30 calendar days of the designated or agreed extended date of Substantial Completion. It is specifically understood and agreed by and between Owner and Contractor that time is of the essence in the Final Completion of the Project and Owner shall sustain additional damages as a result of Contractor's failure, neglect or refusal to achieve said deadline. Such damages are, and will continue to be, impracticable and extremely difficult to determine. Execution of this Agreement under these specifications shall constitute agreement by Owner and Contractor that the amounts stated below are the minimum value of the costs and damages caused by failure of Contractor to complete the Work within the allotted or agreed extended times for Final Completion, that such sums are liquidated damages and shall not be construed as a penalty. It is expressly understood that the said sum per day is agreed upon as a fair estimate of the pecuniary damages which will be sustained by the Owner in the event that the Work is not finally completed within the agreed time, or within the agreed extended time, if any, otherwise provided for herein. Said sum shall be considered as liquidated damages only and in no sense shall be considered a penalty, said damages being caused by, but not limited to, additional compensation for the following categories of damages to the Owner: potential hazards to students, staff and visitors, additional architectural, engineering, program management fees (and fees of any other consultants); increased administrative or operational expenses; additional attorney's fees; increased maintenance and custodial costs and

additional, utilities, security and clean-up costs, and other increased costs. Failure to complete the Work within the designated or agreed extended dates of Final Completion, shall be construed as a breach of this Agreement. Owner and Contractor agree that should Contractor fail to achieve Final Completion of the Agreement by the deadline, Owner shall continue to be damaged to a greater degree by such delay. Contractor and Owner agree that the amount of liquidated damages for each calendar day Final Completion is delayed beyond the date set for Final Completion shall be the sum of \$500 per day. Owner may deduct such liquidated damages from any Payment made to Contractor before or at Final Payment; or, if sufficient funds are not available, then Contractor shall pay Owner, the amounts specified per day for each and every calendar day the breach continues after the deadline for Final Completion of the Work.

§ 4.5.3 Such damages shall be in addition to, and not in lieu of, any other rights or remedies Owner may have against Contractor for failure to timely achieve Final Completion, and damages for failure to achieve Substantial Completion and failure to achieve Final Completion may run concurrently. If the Work is not finally completed by the time stated in the Agreement, or as extended, no payments for Work completed beyond that time shall be made until the Project reaches Final Completion.

ARTICLE 4 PAYMENTS

§ 4.1 Payments shall be in accordance with Article 3 of the Master Agreement, except as indicated below:
(Indicate all payment terms that differ from those set forth in the Master Agreement, such as period covered by each Application for Payment or date upon which each Application for Payment is due.)

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§ 4.2 Retainage will be withheld in accordance with Article 3 of the Master Agreement, except as indicated below:
(Indicate all retainage terms that differ from those set forth in the Master Agreement, such as retainage amount, items not subject to retainage, terms for reduction, or limitation of retainage.)

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ARTICLE 5 INSURANCE AND BONDS

§ 5.1 Insurance shall be in accordance with Article 15 of the Master Agreement, except as indicated below:
(Insert any insurance requirements that differ from those stated in the Master Agreement, such as coverage types, coverage limits, and durations for professional liability or other coverages.)

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§ 5.2 In addition to insurance requirements in the Master Agreement, the Contractor shall carry the following types of insurance.

(List below any other insurance coverage to be provided by the Contractor, not otherwise set forth in the Master Agreement, and any applicable limits.)

Coverage	Limits
§ 5.3 [Intentionally Deleted]	
§ 5.4 [Intentionally Deleted]	
§ 5.5 [Intentionally Deleted]	
§ 5.6 The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows: (Specify type and penal sum of bonds.)	
Type	Penal Sum (\$0.00)
Payment Bond	
Performance Bond	

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Work Order.

ARTICLE 6 PARTY REPRESENTATIVES

§ 6.1 The Owner identifies the following representative in accordance with Section 1.4.1 of the Master Agreement:
(List name, address, and other information.)

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§ 6.2 The Contractor identifies the following representative in accordance with Section 1.5.1 of the Master Agreement:
(List name, address, and other information.)

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ARTICLE 7 ENUMERATION OF CONTRACT DOCUMENTS

§ 7.1 The Contract Documents are defined in Section 5.2 of the Master Agreement and, except for Modifications issued after execution of this Work Order, are enumerated in the sections below.

§ 7.1.1 This Work Order

§ 7.1.2 The Master Agreement

§ 7.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ 7.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Work Order.)

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Section	Title	Date	Pages

§ 7.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Work Order.)

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Number	Title	Date

§ 7.1.6 The Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are enumerated in this Article 5.

§ 7.1.7 Additional documents, if any, forming part of the Contract Documents:
(List here any additional documents that are intended to form part of the Contract Documents.)

«All sections of the Project Manual and Construction Documents »

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

OWNER *(Signature)*

« »« »

(Printed name and title)

CONTRACTOR *(Signature)*

« »« »

(Printed name and title)

