

Agenda of Regular Meeting and Public Hearing for Adoption of 2024-2025 Official Budget

The Board of Trustees Ector County Independent School District

A Regular Meeting and Public Hearing for Adoption of 2024-2025 Official Budget of the Board of Trustees of Ector County Independent School District will be held June 18, 2024, beginning at 6:00 PM.

The subjects to be discussed or considered are listed below. Items do not have to be taken in the same order as shown on this meeting notice.

1. Call to Order - Roll Call
2. Verification of Compliance with Open Meeting Law - this is to certify that the provisions of Section 551.001 of the Texas Government code have been met in connection with public notice of this meeting.
3. Pledge Allegiance to US and Texas Flags:
Camp SIP Students Ava Loera - Hays Elementary incoming 4th Grader and
Hailey Vesely - Nimitz Middle School incoming 8th Grader
4. Invocation: Deacon Alfonso Moreno, St Joseph Catholic Church
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12. Possible Request for Approval to Move to Closed Meeting - Personnel Matters - Section 551.074 of the Texas Government Code [Board will deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of public employees of the District or hear a complaint or charge against an officer or employee.] (The Board of Trustees will deliberate on the hiring of an Executive Director of Accountability and School Improvement and Executive Director of Leadership.) Consultations with Attorney - Section 551.071 of the Texas Open Meetings Act [The Board will meet in Closed Session in Consultation with the Board's Attorney Regarding all Matters as Authorized by Law.]	
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BOND 2023 UPDATE

Superintendent and Board of Trustees will discuss various aspects of the 2023 Bond.



BOND 2023

School Board Update

June 18, 2024





PROJECT IMPLEMENTATION

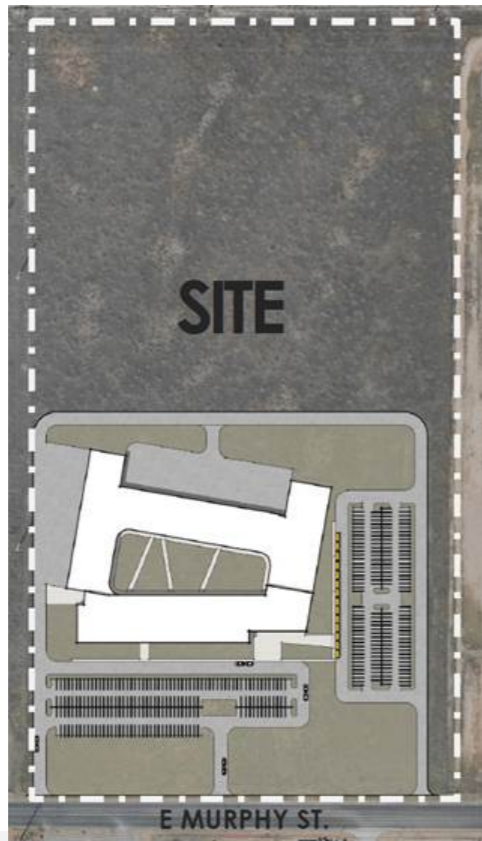
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ECISD
BOND 2023

CTE High School

- CTE Center Advisory Committee met May 30
- Reviewed many designs and ultimately recommended this design



(2nd floor)



CTE High School Planning – May 30, 2024



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CTE Sign Placed – June 11



Middle School Presentation – June 11

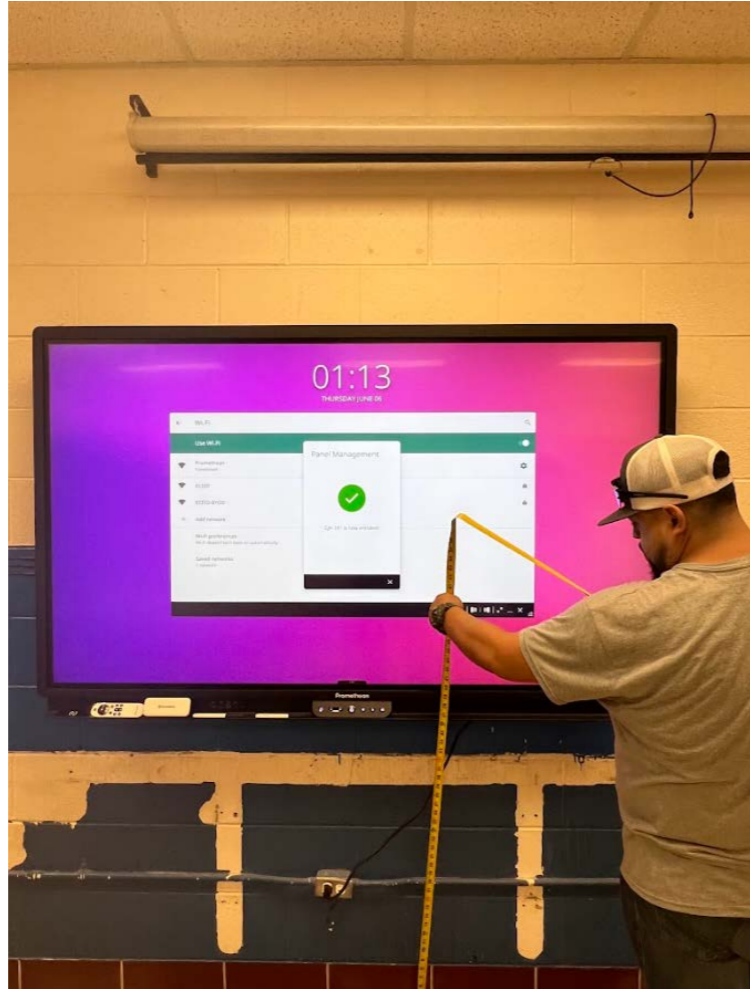
- PBK presented recommended designs for the new middle school
- Prior to this presentation, they had received feedback from different district departments including School Nutrition and Fine Arts



Middle School Sign Placed – June 11



Technology – Finalized Interactive Flat Panel Project June 6



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Priority 1 & 2 Renovation Projects

ECISD Operations met with Gordian and about 30 contractors on Monday, June 10 to go over job order contracting in preparation of priority 1 & 2 renovation projects getting started. This meeting was held in-person on-site at the ECISD Admin Building to encourage local contractor participation.



Transition Learning Center

DLR met with a committee to do initial planning for the Transition Learning Center on Wednesday, June 12



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FINANCE



**ECISD
Bond 2023
Costs by Project
as of 6/12/2024**



Project Name	Projects Budget	Purchase Orders Encumbrance	Paid Actual	Remaining Available
MIDDLE SCHOOL	120,000,000	5,484,435	146,564	114,369,001
PRIORITY 1&2 ITEMS	117,783,000	5,413,966	10,602	112,358,432
HS/CTE CENTER	80,000,000	3,712,500	38,344	76,249,156
TRANSPORTATION FACILITY	35,000,000	1,575,000		33,425,000
AUDITORIUM RENO-PHS	12,500,000	796,875		11,703,125
TECHNOLOGY-PA, BELL, CLOCK, FA SYS	10,000,000			10,000,000
LAND PURCHASE	9,000,000	2,478,278	834,520	5,687,202
TRANSITION LEARNING CENTER	8,000,000			8,000,000
AG FARM BUILDINGS-CTE	7,500,000			7,500,000
TECHNOLOGY ITEMS-SURVEILLANCE	6,000,000			6,000,000
FINE ARTS INSTRUMENTS	3,665,000	799,884	151,780	2,713,336
TECH ITEMS-FLT PNL BDS,AV EQP	3,500,000	192,500	3,230,012	77,488
TECHNOLOGY - PHONE SYS	2,500,000			2,500,000
TRANSPORTATION BUSES	2,450,000			2,450,000
JROTC FACILITY	1,500,000	104,063		1,395,937
TECHNOLOGY ITEMS - AV EQUIP	1,500,000			1,500,000
ATH-MS TENNIS COURT RESURFACE	480,000	247,538		232,462
MS UNIF-BAND&MARIACHI	685,000			685,000
ATH-BB & TENNIS LIGHTS-OHS	650,000	600,000		50,000
ATH-MS GYM BLEACHERS	1,000,000	845,158		154,842
ATH-BASEBALL LIGHTING-PHS	400,000	399,999		1
MS PERFORMANCE RISERS	150,000	30,948		119,052
Totals	\$ 424,263,000	\$ 22,681,144	\$ 4,411,822	\$ 397,170,034
Percent	100%	5%	1%	94%





Bond Sales

- Bond Sales - \$99,545,000

Series 2024B

- On 6/5/2024, the District offered variable rate bonds to investors.
- Investors were interested in nearly \$216 million for the nearly \$100 million we had available to sell.
- We successfully sold all the bonds with an initial interest rate of 3.62%.
- The interest rate is .12% above the estimated rate of 3.50% presented to the board in the Preliminary Financing Plan on 3/26/24.
- The interest rate is 1.63% below the information provided in the voter document in November 2023.
- Had the bonds been sold as fixed rate bonds, the interest rate would have approximated 4.57% and the district would have incurred \$2.3 million more in interest costs.

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FUTURE ACTIONS

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Fine Arts

- A total of 286 instruments have been ordered to benefit all high school and middle school band and orchestra programs along with the Harp Program and middle school choirs.
- Next instrument orders will include instruments for mariachi, elementary and additional middle school band.

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Athletics

- Work has been ongoing on the lighting project for OHS & Permian athletic fields.
- With permits obtained and underground work started, installation of the light poles should begin July 1.

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RFP Update

- Language has been finalized with Gordian and 8 RFP's will go live on Wednesday, June 26
- RFP's include general contracting along with trades such as roofing, plumbing, weatherproofing, and more.

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THANK YOU





Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Deborah Ottmers, Chief Financial Officer

SUBJECT: DISCUSSION OF AND REQUEST FOR APPROVAL OF BOND 2023 PURCHASES OVER \$50,000

DATE: June 18, 2024

As Required by Board Policy CH (Local), following is a list to consider and take possible action to authorize, negotiate, and enter into term agreements with recommended vendors to be awarded by purchase orders once approved.

Administrative Recommendation:
Approval of Bond 2023 Purchases over \$50,000

RFP #24-28 Addendum 2 – Surveillance Camera Refresh

- **Purpose:** Fulfill the project voted on in the 2023 bond. This project will upgrade district surveillance cameras.
- **Background Info:** Surveillance cameras on campuses and district facilities in the district are at end of life for support and replacing the surveillance cameras are part of the bond that passed in 2023.
- **Premium Renewal Cost:** \$4,891,321.82
- **Funding Source:** 693 - Bond Funds

Recommended Supplier/Service Provider: CDWG

Board Approval

Date

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
ODESSA, TEXAS
 RFP 24-28 Addendum 2 Surveillance Camera Refresh
SCORE SHEET
 Closed: May 15, 2024 1:00 PM

Consolidated

Evaluators	Suppliers					
	CDW-G	Control Technologies, Inc	Entec Solutions LLC	Fidis Solutions Group	Mobile Communications America Inc	NexGen
Evaluator 1	89	NS	NS	NS	NS	73
Evaluator 2	100	NS	NS	NS	NS	34
Evaluator 3	83	NS	NS	NS	NS	62
Evaluator 4	95	NS	NS	NS	NS	82
Evaluator 5	91	NS	NS	NS	NS	67
Evaluator 6	96	NS	NS	NS	NS	72
Evaluator 7	96	NS	NS	NS	NS	87
Evaluator 8	85	NS	NS	NS	NS	15
Total	735	NS	NS	NS	NS	492
Average	92	NS	NS	NS	NS	62

NS - Not Scored

ECISD
Request for Bond Purchases Over \$50,000
June 2024

Item	Vendor(s)	Estimated Contract Price	Funding	Requestor/ Department	Reference	Service/ Product	Service/Product Summary	Contract Term
1	CDW-G	\$ 4,891,322	Bond Funds 693	Dr. Kellie Wilks Information Technology	ECISD AWARDED RFP 24-28 ADDENDUM 2	Surveillance Camera Refresh	Surveillance camera refresh for Bond 2023 Proposition A. Cameras will be replaced on Campuses and in district facilities.	FY 2024 / FY 2028



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Anthony Sorola, Associate Superintendent of Athletics, Human Capital, and Operations

SUBJECT: **DISCUSSION OF AND REQUEST FOR APPROVAL OF ARCHITECT-OWNER CONTRACT FOR BOND PROGRAM CONSTRUCTION BETWEEN ECISD AND PARKHILL FOR A NEW AGRICULTURAL FARM FACILITY**

DATE: June 18, 2024

It is the recommendation of the administration that the Board of Trustees approve the Architect-Owner Contract for Bond Program Construction between ECISD and Parkhill for a new Agricultural Farm facility.

Administrative Recommendation:

Approval of Architect-Owner Contract for Bond Program Construction between ECISD and Parkhill for a new Agricultural Farm facility.



AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Eighteenth day of June in the year Two Thousand Twenty Four

(In words, indicate day, month and year.)

BETWEEN the Architect’s client identified as the Owner:
(Name, legal status, address and other information)

Ector County Independent School District
802 N. Sam Houston
Odessa, Texas 79761
Phone: (432) 456-0000

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

Parkhill
1700 W. Wall, Suite 100
Midland, Texas 79701
Phone: (432) 697-1447
Fax: (432) 697-9758

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

New Agriculture Farm Facility
7651 West Dunn Street
Odessa, Texas 79763

The Owner and Architect agree as follows.

WHEREAS Ector County Independent School District (hereinafter referred to as "Owner") and Parkhill (hereinafter referred to as "Architect") desire to enter into a contract under which Architect will perform construction services relating the above-referenced Projects on behalf of Owner;

WHEREAS Owner and Architect have agreed to enter into AIA Document B101™-2017 Contract ("Contract") as the basic form for that contract; and

WHEREAS certain terms and conditions of the contract must be modified to comply with applicable laws and policies affecting Owner and Architect on this project, Owner and Architect hereby agree to the following amendments to the Contract:

ADDITIONS AND DELETIONS:

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

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

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

The Architect will work with the Owner to develop the project program in accordance with established standards and scope.

§ 1.1.2 The Project's physical characteristics:

(Paragraph deleted)

The District wishes to construct a new Agricultural Facility to serve the Animal Science program of study. The facility will consist of classroom space and livestock facilities and barns. The existing greenhouse(s) will remain.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

\$5,625,000.00

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Commencement: 7-1-2024

Init.

.2 Construction commencement date:

March, 2025 Tentative

.3 Substantial Completion date or dates:

May, 2026 Tentative

.4 Other milestone dates:

TBD

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Competitive Sealed Proposals

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

None

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Dr. Scott Muri, Superintendent or his designee
Ector County Independent School District
802 N. Sam Houston
Odessa, Texas 79762
Phone: (432) 456-0000

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

§ 1.1.9 The Owner may retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical
(Paragraphs deleted)
Engineer (if needed): To be identified by Owner at a later date.

.2
(Paragraphs deleted)
Other, if any:

Init.

Surveyor - TBD

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

John Ogomo, AIA. Project Manager
1700 W. Wall Street
Midland, Texas 79701
Phone: 972.987.1670

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2 and shall select such consultants based on the qualification-based selection process established in Texas Government Code, Chapter 2254.:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Parkhill
1700 W. Wall St.
Midland, Texas 79701

.2 Mechanical Engineer:

Parkhill
1700 W. Wall St.
Midland, Texas 79701

.3 Electrical Engineer:

Parkhill
1700 W. Wall St.
Midland, Texas 79701

Consultants not governed by Texas Occupations Code Chapter 1001 shall be licensed or registered as required by applicable law.

§ 1.1.11.2 Consultants retained under Supplemental Services:

Surveyor: TBD

§ 1.1.12 Other Initial Information on which the Agreement is based:

Whenever a statute, regulation, or code is cited in this Agreement, it shall refer to that statute, regulation, or code or its successor at the time the Agreement is signed or, a revised statute, regulation, or code if it becomes effective at a later time and compliance is required for completion and approval of the Project.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties may agree in writing upon protocols, governing the transmission and use of Construction Documents or any other information or documentation in digital form. The parties will use AIA Document E203™-2013,

Init.

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User Notes:

(1312314960)

Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

(Paragraph deleted)

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect shall provide professional services as set forth in this Agreement. The Architect shall also comply with all provisions in Texas Administrative Code, Title 19 Section 61.1040, pertaining to services and actions required of the Architect. Architect, prior to signing this Agreement and submitting it to the Owner, shall comply with the provisions of Texas Government Code Section 2252.908, requiring a Disclosure of Interested Parties filed with the Texas Ethics Commission. Architect certifies that Architect is a registered professional architect or engineer licensed to practice in the State of Texas. Pursuant to the Texas Occupations Code, any civil, structural, mechanical, or electrical plans, specifications, or opinions of probable cost for construction must be prepared by a registered professional engineer or a registered architect, whichever is appropriate, and who is licensed to practice in the State of Texas. Architect agrees to notify Owner should Architect's registration status change. Architect certifies that Architect and Architect's employees and agents are eligible to work under federal, state and local immigration laws and regulations.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances and as expeditiously as is prudent considering the ordinary professional skill and care of a competent architect, as set out in Texas Local Government Code Section 271.904(d) and Texas Civil Practice and Remedies Code Section 130.002, hereinafter referred to as the "Standard of Care." The Architect shall further, and to the extent required by 19 Texas Administrative Code Section 61.140, provide all certifications required by Section 61.140(f), and otherwise perform its services and obligations required of it by applicable laws, codes, and ordinances in accordance with the Standard of Care. Owner's approval, acceptance, use of, or payment for all or any of Architect's services shall in no way alter Architect's obligations or Owner's rights hereunder.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The identified Architect shall be the prime design professional for the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 Prior to performing Architect's services under this Agreement, Architect shall procure, maintain and provide insurance certificates, policies and endorsements, in at least the following amounts, to protect Architect and Owner from claims arising out of the performance of the Architect's services under this Agreement and caused by any error, omission, negligent act or omission, or design defect by Architect, such insurance to be in a form approved by the Owner, with an effective date prior to the beginning date of design. Such insurance shall be written on an occurrence basis, if available, and on a claims-made basis, if occurrence basis insurance is not available. Architect shall maintain its insurance in full force and effect and uninterrupted during the term of this Agreement and after the completion of services under this Agreement until the completion of any applicable statute of limitations, such period to be not less than one year from Final Completion of all construction of this Project as to workers compensation, two years from the Final Completion of all construction of this Project as to commercial general liability, and comprehensive automobile liability, and not less than eight years from the Substantial Completion of all construction of this Project (or ten years, as allowed by Texas Civil Practice and Remedies Code § 16.008), as to errors and omissions insurance. Architect shall furnish to Owner insurance certificates, policies and endorsements upon request at any time. Architect shall name Owner as an additional insured under his policies for commercial general liability and comprehensive automotive liability. All insurance required herein shall be obtained from a company licensed to do business in the State of Texas by the Texas Department of Insurance, and shall be underwritten by a company rated not less than A-X in A.M. Best's Key Rating Guide, Property-Casualty, according to the latest posted ratings available on A.M. Best's website, www.ambest.com, and that permits waivers of subrogation. Deductibles or self-insured retention limits for all policies (except Architect's Errors or Omissions insurance) shall not exceed \$25,000 for a project budgeted at \$4 million or less, or \$50,000 for a project budgeted at more than \$4 million. The policies shall include a waiver of subrogation in favor of the Owner. Any deviation from these requirements can only be approved by Owner's Board of Trustees. To the extent that Architect is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Architect shall provide written notice to Owner's Board of Trustees. Any

nonconformity may be grounds for termination or modification of the Contract. Such policies shall be primary and non-contributory. The limits of liability for such insurance shall be in at least the following amounts:

(Paragraphs deleted)

§ 2.5.1 Workers' Compensation

- .1 State: Statutory Benefits
- .2 Employer's Liability: \$1,000,000 per accident
\$1,000,000 disease, policy limit
\$1,000,000 disease, each employee

§ 2.5.2 Commercial General Liability with policy limits of not less than the following amounts

- .1 Each occurrence: \$ 1,000,000.00 each occurrence
\$ 2,000,000.00 aggregate
- .2 Medical Expense (per person) \$ 10,000 each occurrence
- .3 Products & Completed Operations: \$ 2,000,000 aggregate (to be maintained for a period of two years after Final Payment; Contractor shall continue to provide evidence of such coverage to Owner on an annual basis during this period and Owner shall be named by endorsement as an Additional Insured for such coverage)
- .4 Personal & Advertising Injury \$ 1,000,000 aggregate
- .5 Must include explosion, collapse, and underground (X, C, and U) coverage
- .6 Must include Completed Operations coverage
- .7 Must Include Contractual Liability Coverage
- .8 Must Include General Aggregate Per Project Endorsement.

§ 2.5.3 Contractual Liability:

- .1 Property Damage shall be included in Commercial General Liability Coverage.
- .2 Insurance sufficient to cover Architect's contractual indemnities.

§ 2.5.4 Business Automobile Liability (including owned, non-owned, hired, or any other vehicles):

- .1 Combined single limit policy in the amount of at least \$1,000,000 for Bodily Injury and Property – Each Accident.

§ 2.5.5 Professional Liability (E&O) Coverage in at least in the following amounts:

- \$ 5,000,000.00 per claim
- \$ 7,000,000.00 per annual aggregate

Deductibles or self-insured retention amounts shall not exceed \$25,000 for a project budgeted at \$4 million or less, or \$50,000 for a project budgeted at more than \$4 million.

- .1 Architectural and engineering consultants shall carry Professional Liability (errors and omissions) insurance in an amount not less than Two Million Dollars in the aggregate (\$ 2,000,000.00).

§ 2.5.6 Umbrella Excess Liability coverages shall be:

- .1 \$ 1,000,000.00 each occurrence
- .2 \$ 2,000,000.00 aggregate
- .3 \$ 2,000,000.00 aggregate Per Project Endorsement

§ 2.5.7 Texas Workers Compensation Insurance. Because Architect will be performing services on-site, a copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance (TDI), or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the Architect or his employees providing services on a Project is required for the duration of the Project.

28 TAC § 110.110(i).

- .1 Duration of the Project includes the time from the beginning of the Work on the Project until the Architect's Work on the Project has been completed and accepted by the Owner.
- .2 Persons providing services on the Project include all persons or entities performing all or part of the services the Architect has undertaken to perform on the Project, regardless of whether that person contracted directly with the Architect and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the Project.
- .3 Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to the Project. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- .4 The Architect shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code § 401.011(44) for all employees of the Architect providing services on the Project for the duration of the Project.
- .5 The Architect must provide a certificate of coverage to the Owner prior to being awarded the contract.
- .6 If the coverage period shown on the Architect's current certificate of coverage ends during the duration of the Project, the Architect must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.
- .7 The Architect shall obtain from each person providing services on a project, and provide to the Owner:
 - .1 A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
 - .2 No later than seven days after receipt by the Architect, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.
- .8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

- .9** The Architect shall notify the Owner in writing by certified mail or personal delivery, within ten days after the Architect knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.
- .10** The Architect shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- .11** The Architect shall contractually require each person with whom it contracts to provide services on a project, to:
- .1** Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code § 401.011(44) for all of its employees providing services on the Project for the duration of the Project;
 - .2** Provide to the Architect, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;
 - .3** Provide the Architect, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
 - .4** Obtain from each other person with whom it contracts, and provide to the Architect:
 - .1** A certificate of coverage, prior to the other person beginning work on the Project; and
 - .2** A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
 - .5** Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;
 - .6** Notify the Owner in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage for any person providing services on the Project; and
 - .7** Contractually require each person with whom it contracts to perform as required by items 1-7, with the certificates of coverage to be provided to the person for whom they are providing services.
- .12** By signing this contract or providing or causing to be provided a certificate of coverage, the Architect is representing to the Owner that all employees of the Architect who will provide services on the Project will be covered by workers' compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Architect to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- .13** The Architect's failure to comply with any of these provisions is a breach of contract by the Architect that entitles the Owner to declare the contract void if the Architect does not remedy the breach within ten days after receipt of notice of breach from the Owner.

- .14 The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 Architect, prior to signing this Agreement and submitting it to the Owner, shall comply with the provisions of Texas Government Code Section 2252.908, requiring a Disclosure of Interested Parties filed with the Texas Ethics Commission. The Architect's Basic Services consist of those described in Article 3 and Section 4.1 and include usual and customary architectural services, structural, mechanical, plumbing and electrical engineering services; landscape design; architectural interior design; audio-visual, data, and telecommunications and technology design and distribution; kitchen and food service equipment design; acoustical engineering and design; site feasibility design; programming for new schools and/or scope of work verification for renovations of existing schools; security planning services; graphics/way-finding planning services; roofing consultant services unless otherwise approved by Owner; accessibility services; estimating by the Architect's independent estimating consultant; record drawings; professional renderings; design and construction data base management; Texas Commission on Environmental Quality compliance services, if appropriate; and internal auditing and accounting services necessary for Architect to fulfill Architect's responsibilities under this Agreement and as necessary to complete the Project. Architect shall provide all plans and specifications for all on-site development necessary for the Project, which shall include locating any building on-site, and developing all plans and specifications for site drainage, parking, landscaping, walkways, irrigation, playgrounds, staging areas when appropriate, portable buildings and accompanying infrastructure if applicable. The District will not waive any services recommended by the Architect that are required by law.

Architect certifies that Architect is a registered professional architect or engineer licensed to practice in the State of Texas. Pursuant to the Texas Occupations Code, any civil, structural, mechanical, or electrical plans, specifications, or opinions of probable cost for construction must be prepared by a registered professional engineer or a registered architect, whichever is appropriate, and who is licensed to practice in the State of Texas. Architect agrees to notify Owner should Architect's registration status change. Architect certifies that Architect and Architect's employees and agents are eligible to work under federal, state and local immigration laws and regulations. Services not set forth in Article 3 and Section 4.1 are Additional Services.

§ 3.1.1 The Architect shall perform and manage the Architect's services and administer the Project, in accordance with this Agreement as amended for this Project, and with the AIA Document A201-2017, General Conditions of the Contract for Construction, as amended for this Project, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner through the issuance of progress reports to Owner and Contractor, as more specifically defined hereafter. The Architect shall not be relieved of any obligation to perform in accordance with the standard of care applicable to licensed architects in the State of Texas under the same or similar circumstances, regardless of whether or not a specific responsibility or task is included or identified in this Agreement.

- .1 Upon request of the Owner's representative, the Architect shall make presentations to Owner's representatives to review the design of the Project. In addition, upon request of the Owner's representative, the Architect shall make monthly presentations to Owner's Board of Trustees.
- .2 The Architect shall submit design documents to the Owner at intervals appropriate to the design process as designated in this Agreement, as amended, for purposes of evaluation and approval by the Owner's Board of Trustees or the Board's designee, as specified herein. The Architect shall be entitled to rely on approvals received from the Owner's Board of Trustees or the Board's designee in the further development of the design, provided that nothing herein shall relieve Architect of responsibility or liability for its failure to provide its services in accordance with the Standard of Care.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants in accordance with 19 TAC Section 61.140. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. Architect shall also promptly respond in writing to notices from Owner regarding Owner's discovery of errors, omissions, or inconsistencies, and, if requested, shall promptly meet with Owner regarding same. Owner's notice or lack of notice shall not relieve Architect of any responsibility or liability for performance of Architect's contracted services.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services including the dates of Architect's design services and the completion of documentation required of the Architect. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion and Final Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's and Contractor's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. The schedule shall also include commencement of construction, timed sufficiently to achieve Owner's proposed dates of Substantial Completion and Final Completion as stated in this Agreement, as amended, and within Owner's budget. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect. With the Owner's prior written approval for reasonable cause, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction. If Contractor is a Construction Manager-at-Risk, then the Architect shall reasonably cooperate with the Construction Manager-at-Risk in the preparation and periodic update of the Project schedule.

.1 Architect shall also review and search all building codes applicable to the Project, and shall reasonably comply with all applicable codes in the design and construction of the Project, as required by 19 TAC § 61.1040(e)(5)(C), and (j)(1) and (2), including without limitation, design of storm shelters, and use of a third-party code compliance officer where code compliance will not be enforced by a state or local authority having jurisdiction ("building code official"). Architect shall coordinate and prepare a proposed statement of any special inspections or testing required in accordance with the required construction codes, customizing the proposed statement based on knowledge about the project regardless of whether the statement requires testing and inspection to be less than the default requirements of the required construction codes, including materials testing, project-specific requirements for special inspections and testing, specific wind and seismic requirements, frequency of the special inspections, or tests to be performed in accordance with the referenced standard defining the inspection. 19 TAC Section 61.1040(e)(6)(D). Architect shall ensure that the Construction Documents are of sufficient clarity to indicate the timing, location, nature, and extent of specific inspections and tests required to be performed by the Owner through the local authority having jurisdiction, the third-party code compliance officer, any third-party special inspector or inspection agency, or the Architect if qualified as a special inspector and specified as a contractual term. 19 TAC Section 61.1040(e)(6)(E). A building permit issued by a local authority having jurisdiction or a third-party code compliance officer shall be considered by the Owner to indicate that the proposed statement of special inspections is approved and constitutes the code-required inspections and tests. 19 TAC Section 61.1040(e)(6)(F). The Contractor, before beginning construction, shall submit to the Owner, Architect, and the building code official or third-party code compliance officer an acknowledgement of the Contractor's responsibility to notify quality assurance personnel that will be performing inspections and tests when the Project is ready for those specific inspections and tests and the Contractor's responsibility to request and obtain a final report from each quality control person performing the code-required inspections and tests before requesting a certificate of occupancy. 19 TAC Section 61.1040(e)(6)(G). Third-party inspectors who perform the code-required inspections and tests shall submit inspection and testing reports to the Owner and the Architect, and shall submit a final report to the Owner, Architect, building code official or third-party code compliance officer, and Contractor, upon request by the Contractor, indicating any known deficiencies discovered during the Project that have not yet been addressed at the time of the request. 19 TAC Section 61.1040(e)(6)(H). Special inspections and testing reports shall be submitted to the building code official and the Architect, and any discrepancies shall be brought to the attention of the Contractor, and if not corrected, to the attention

of the building code official, the Architect, and the Owner. 19 TAC Section 61.1040(e)(6)(I). The Architect shall comply with 19 TAC Section 61.1040(j) and (k) in the design of this Project.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval. The Architect shall review, and be responsible for compliance with, laws, codes, and regulations applicable to the Architect's services, including, without limitation, school facility standards found in 19 TAC Section 61.1040, and Texas Health and Safety Code Chapter 341, in accordance with the Standard of Care. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project. The Architect shall comply with all policies, regulations and rules of the Owner, including, but not limited to, those related to employee conduct (such as prohibitions against alcohol, weapons, drugs, fraternization, harassment, and tobacco on school property), and fraud and financial impropriety. Architect shall certify that he has reviewed the standards contained in 19 TAC Section 61.1040, and used reasonable care in accordance with the Standard of Care. Architect shall also certify that the Construction Documents are in reasonable accordance with the provisions of 19 TAC Section 61.1040, except as indicated on the certification. Architect shall perform a building code search under applicable regulations that may influence the Project, and shall certify that the design has been researched before it is final, as required by 19 TAC Section 61.1040. Architect shall also certify that the facilities have been designed according to the provisions of 19 TAC Section 61.1040, based on the educational program, long-range school facility plan, educational specifications, building code specifications, and all documented changes to the Construction Documents provided by the District, as required by 19 TAC Section 61.1040 and shall certify the Project has been designed in reasonable compliance with Owner's long-range facility plan, educational specifications, school facility standards, and facility space as determined by Owner's Qualitative or Quantitative evaluation of compliance for space standards. Architect shall complete the Texas Education Agency's Certification of Project Compliance, located at www.tea.state.tx.us. In executing the certifications required under the provisions of this Section, Architect shall exercise his/her reasonable professional judgment and care consistent with the Standard of Care. Architect shall design the Project in such a manner that the Project or each part of the Project is readily accessible to and usable by individuals with disabilities, in compliance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, federal regulations interpreting the Americans with Disabilities Act and Section 504, Texas Government Code Chapter 469, the Texas Accessibility Standards, all applicable requirements or standards of the Texas Department of Licensing and Regulation, and all applicable requirements or standards of the American National Standards Institute. It shall be the responsibility of Architect to inform all parties of revisions or amendments to applicable codes or standards which become effective prior to the date of issue of applicable building permits. Revisions or amendments to applicable codes or standards which become effective after the issue of applicable building permits shall be noted (including any project additionally required documentation and related project revisions) by the Architect, and shall be compensated as an Additional Service pursuant to Section 4.2.1.2, if applicable to the Project and required for Final Completion.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall comply with applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be the edition of AIA Document A201-2017, as amended for this Project as of the date of this Agreement, and Architect herein agrees to abide by same. Architect agrees that the AIA Document A201-2017 may be subject to subsequent amendments based upon negotiations between Owner, Architect and Contractor. As a condition of further service, Architect shall provide to Owner a signed statement stating Architect's agreement to adhere to any such negotiated amendments which may cause an adjustment in the Architect's compensation and must be mutually agreed upon by the Owner and Architect in writing before proceeding.

§ 3.1.7 The scope of work for this Project:

The District wishes to construction a new Agricultural Facility to serve the Animal Science program of study. The facility will consist of classroom space and livestock facilities and barns. The existing greenhouse(s) will remain.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall assist the Owner with the provision of the educational program and educational specifications, which shall be approved by Owner's Board of Trustees, per 19 Texas Administrative Code Section

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61.1040. The Architect shall review the program and specifications furnished by Owner to ascertain the specific requirements of the Project and shall arrive at a mutual written understanding of such requirements with Owner. Architect shall include all components of Owner's program in the Project, unless specific written agreement to delete a component is received from Owner.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project, and to ascertain that they are consistent with the requirements of the Project. The Architect shall notify the Owner in writing of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project. The Architect shall visit the Owner's Project site and shall provide to Owner a written report evaluating the feasibility of the Owner's site for the Project based on site conditions, and the Owner's program, schedule and budget for the Cost of the Work. The Architect shall include, in the written report, an identification and evaluation of the location, availability, adequacy, capacity, and sufficiency of all utilities necessary to serve the completed Project. The Architect shall address with the Owner any existing easements or rights-of-way which may interfere with Owner's Project.

§ 3.2.3 The Architect shall present its written preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach a written understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon in writing with the Owner, the Architect shall prepare and present, for the Owner's approval, a written preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design and Owner's schedule and budget for the Work, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall establish the conceptual design of the Project and illustrate the scale and relationship of the Project components. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider and discuss with Owner sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may, but shall not be required to, consider and approve any sustainable design alternatives recommended by Architect so long as such alternatives do not increase the cost of the Work.

§ 3.2.5.2 The Architect shall consider, and, if applicable, consult with the Construction Manager at Risk regarding, the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 When the Project requirements have been sufficiently identified, including Owner's budgetary constraints, programmatic needs, and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities, the Architect, and, if applicable, the Construction Manager at Risk, shall prepare a preliminary opinion of the Cost of the Work prepared in accordance with Section 6.3. This opinion may be based on current area, volume or similar conceptual estimating techniques.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval. Architect shall not proceed to the Design Development Document Phase without the approval of Owner's Board of Trustees, or the Board's designee; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the Project, and are free from material defects or omissions. Architect shall bear full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without required approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents, shall refine the Project design, and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other elements outlined in this Agreement. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the opinion of the Cost of the Work. As the design process progresses through the end of the preparation of the Construction Documents, the Architect, and if applicable, the Construction Manager at Risk, shall prepare a preliminary opinion of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous opinions of the Cost of the Work indicated by changes in Project requirements or general market conditions. The Architect shall cooperate with the Owner, and if applicable, the Construction Manager at Risk, in developing and designing the Project to satisfy Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of the equipment and facilities. If the Architect's opinion of the Cost of the Work exceeds the Owner's budget, then the Architect shall redesign elements to achieve cost savings within the Scope of the Work, but in doing so, shall not delete any essential element of the Project. Architect shall present the redesign to Owner for Owner's approval as provided in § 3.3.3, and, in doing so, shall notify Owner in writing of the actions taken to bring the Project into Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments, with Owner having the right to approve or reject such recommendations.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the opinion of the Cost of the Work, redesign the Project to comply with Owner's budget, and request the Owner's approval. Architect shall not proceed to the Construction Documents Phase without the approval of Owner's Board of Trustees, or Board's designee; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the Project, and are free from material defects or omissions. Architect shall bear full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without Board, or Board's designee's approval.

§ 3.3.4 The Owner's decisions on matters relating to aesthetic effect shall be final. To the extent that Owner's Contractor or Construction Manager at Risk recommends aesthetic revisions to Owner, Architect shall be consulted.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. "Construction Documents" means: all Drawings, specifications, submittals, transmittals, deliverables, instructions to Contractor, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants which shall set forth in detail the requirements for construction of the Project. The Construction Documents shall reflect all agreements between Owner and Architect concerning Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. Said Construction Documents shall reflect the Owner's educational program and educational specifications, the State educational adequacy standards in 19 TAC Section 61.1040 and the standards set forth in Section 3.1.4 of this Agreement. The Architect shall provide Construction Documents which are sufficient for Owner to complete construction of the Project, are free from material defects or omissions, and comply with all applicable laws, ordinances, codes, rules, and regulations, as of the date of issuance of Construction Documents. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4. Owner and Owner's authorized

representatives shall be given the opportunity to review all Construction Documents prior to release of the Construction Documents for bidding, proposal or negotiation purposes. Architect's bid specifications and any subsequent contract shall not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization. Texas Government Code Section 2269.054. Architect shall also add the following language in any document issued to solicit bids or competitive sealed proposals on the Project:

By submitting a bid or proposal, each bidder or proposer agrees to waive any claims it has or may have against the Owner, the Architect, and their respective employees, agents, or representatives, arising out of or in connection with the administration, evaluation, recommendation, or selection of any bid or proposal; waiver of any requirements under the bid or proposal documents or contract documents; acceptance or rejection of any bid or proposal; and award of the contract.

§ 3.4.1.1 Errors and Omissions.

§ 3.4.1.1.1 Completed plans and specifications are expected to be comprehensive and free of material errors and omissions, except minor discrepancies or other items that can be corrected by minor change at no cost to the Owner, in accordance with the Standard of Care.

§ 3.4.1.1.2 Procedures and meetings in schematic and design development phases allow for adequate interaction between Owner and Architect to minimize oversights in Project requirements. It is incumbent upon the Architect to thoroughly review his work product, in accordance with the Standard of Care, to detect errors and omissions before they become costly additions to the Project during construction.

§ 3.4.1.1.3 Professional services and costs, if any as required to correct errors in construction documents, are the responsibility of the Architect, including addenda during bidding to rectify errors in the contract documents.

§ 3.4.1.1.4 Deductive change orders may be applied to offset the change order cost applicable to the Architect only to the extent that such deductive change order resulted from an oversight in the Contract Documents that was not required by the Building Program or requested by the Owner. All other deductive change orders due to Owner scope modifications or other value engineering items and unused Allowances shall not apply to this offset provision.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents, including, without limitation, school facility standards found in 19 Texas Administrative Code, Subchapter CC, Section 61.1031 and Section 61.1040, and Texas Health and Safety Code Section 341.065. Architect shall certify that he/she has reviewed the standards contained in 19 Texas Administrative Code Section 61.1031 and Section 61.1040, and performed its services in accordance with the Standard of Care in executing the construction documents. Architect shall also certify that the construction documents conform to the provisions of 19 Texas Administrative Code Section 61.1031 and Section 61.1040, except as indicated on the certification. Architect's signature and seal on the construction documents shall certify compliance. Architect shall perform a building code search under applicable regulations that may influence the Project, and shall certify that the design has been researched before it is final, as required by 19 Texas Administrative Code Section 61.1040.

Architect shall also certify that the facilities have been designed and constructed in reasonable accordance with the provisions of 19 Texas Administrative Code Section 61.1031 and Section 61.1040, based on the educational program, long-range school facility plan, educational specifications, building code specifications, any and all required safety and security directions approved by Owner, and all documented changes to the Construction Documents provided by the District, as required by 19 Texas Administrative Code, Section 61.1032 and Section 61.1040. Architect shall complete the Texas Education Agency's (TEA's) Certification of Project Compliance. In executing the certifications required under the provisions of this Section, Architect shall exercise his/her reasonable professional judgment and care consistent with the Standard of Care. Architect shall design the Project in such a manner that the Project or each part of the Project is readily accessible to and usable by individuals with disabilities, in compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, federal regulations interpreting the Americans with Disabilities Act and Section 504, Texas Government Code Chapter 469, the Texas Accessibility Standards, all applicable requirements or standards of the Texas Department of Licensing and Regulation, and all applicable requirements or standards of the American National Standards Institute. It shall be the responsibility of Architect to make note of and communicate scope of revisions or amendments to applicable codes or standards that

become effective prior to issue of applicable building permits. Revisions or amendments to applicable codes or standards which become effective after the issue of applicable building permits shall be addressed by the Architect, and shall be compensated as Additional Service per Section 4.2.1.2.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner and the Owner's in the development and preparation of (1) bidding competitive purchasing, and procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms bidding competitive purchasing, and; (2) the form of agreement between the Owner and Contractor, or Construction Manager at Risk; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) as amended for the Project. After consultation with the Owner, the Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Project Specifications, and may include bidding or proposal requirements and sample forms. As required by law, all bid or proposal documents and contracts shall include, if applicable, all required information related to trench excavation safety. Texas Health and Safety Code Section 756.021 et seq. All outdoor lighting fixtures designed by Architect, if any, shall meet the statutory energy conservation and light pollution standards established by the Texas Department of Health (Texas Government Code Chapter 425). All ventilation and indoor air quality systems designed by Architect shall meet the indoor air quality voluntary guidelines established by the Texas Department of Health. Texas Health and Safety Code Chapter 385. All playground equipment designed by Architect, if any, shall comply with each applicable provision of ASTM Standard F1487-07ae1. "Consumer Safety Performance Specifications for Playground Equipment for Public Use", published by ASTM International, have no unshielded horizontal bare metal platforms; and be accessible to individuals with disabilities in accordance with the Americans with Disabilities Act Accessibility Guidelines. All playground surfacing designed by Architect, if any, shall comply with each applicable provision of ASTM Standard F2223-04e1, "Standard Guide for ASTM Standards on Playground Surfacing" published by ASTM International, and paths shall be designed for accessibility by individuals with disabilities. Texas Health and Safety Code Section 756.061; Americans with Disabilities Act. Architect shall also comply with 15 U.S.C. § 8003 (Drain cover standards) if applicable. If applicable, Architect shall comply with U.S. Environmental Protection Agency rules concerning renovating, repairing, and painting work in schools built before 1978 that involves lead-based paint.

§ 3.4.3.1 As required by law, any bid or proposal document shall contain prevailing wage rates, which Architect may request from the Owner.

§ 3.4.3.2 Architect shall insert in the Project Specifications the requirement that all bonds comply with the requirements of Texas Insurance Code Section 3503.001 et seq. and Texas Government Code Chapter 2253 or their successors and that all insurance companies be licensed to do business in the State of Texas and, if bond amounts exceed \$100,000, hold a certificate of authority from the U.S. Secretary of the Treasury or reinsurance for liability in excess of \$100,000 from a reinsurer authorized and admitted as a reinsurer in the State of Texas and that is a holder of a certificate of authority from the U.S. Secretary of the Treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law. Owner and Architect reserve the right to rely on the Treasury list of companies holding certificates of authority to determine whether the surety or reinsurer complies with the legal requirement.

§ 3.4.4 The Architect shall update the opinion for the Cost of the Work. If the Architect's opinion of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, then the Architect shall redesign elements to achieve cost savings within the Scope of the Work, but in doing so, shall not delete any essential element of the Project. Architect shall present the redesign to Owner for Owner's approval as provided herein, and, in doing so, shall notify Owner in writing of the actions taken to bring the Project into Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality or budget. Owner shall consider Architect's recommendations, but shall decide, in its discretion, what adjustments to make.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the opinion of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. Architect shall not proceed to the Bidding or Negotiation Phase without the approval of Owner's Board of Trustees, or Board designee; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the Project, and are free from material defects or omissions, in accordance with the Standard of Care. Architect shall bear full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without required approval.

§ 3.4.6 The Owner's decisions on matters relating to aesthetic effect shall be final. To the extent that Owner's Contractor or Construction Manager at Risk recommends aesthetic revisions to Owner, Architect shall be consulted.

§ 3.4.7 Architect shall submit the Construction Documents for review and approval to the Texas Department of Licensing and Regulation any time the renovation, modification, or alteration of the Work has an estimated construction cost of \$50,000 or more, and shall notify Owner of same. Architect shall endeavor to not allow Contractor to file an application with any local governmental entity for a building construction permit until after Architect's submission to the Texas Department of Licensing and Regulation.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

If requested by the Owner, the Architect shall assist the Owner in establishing a list of prospective contractors. Such assistance shall include, if necessary, testifying in any bid or proposal dispute. Architect shall disclose in writing to Owner any prior or current relationships which Architect may have had with any bidders or proposers. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction. The Architect shall cooperate with the Owner's legal counsel in the preparation of all Contract Documents and the General Conditions of the Contract for Construction, as amended or supplemented for the Project, to be used in the bidding or proposal documents. Architect shall ensure that its Supplementary or other Conditions of the Contract, if any, shall not contradict the provisions of Owner's AIA Document A201, as amended, except with Owner's prior written consent.

§ 3.5.2 Competitive Bidding or Purchasing

§ 3.5.2.1 If applicable, Bidding Documents shall consist of bidding or competitive proposal requirements and proposed Contract Documents. The Contract Documents are enumerated in the Agreement, as amended, between the Owner and Architect (hereinafter the Owner/Architect Agreement) and consist of the Owner/Architect Agreement, Conditions of the Contract, as amended, (General, Supplementary and other Conditions), all sections of the Project Manual, including Drawings, Specifications, and Addenda issued prior to execution of the Contract.

§ 3.5.2.2 If requested by the Owner, the Architect shall assist the Owner in bidding or competitively purchasing the Project by:

- .1 procuring at Owner's cost the reproduction of Bidding Documents for distribution to prospective bidders, and distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, evaluating the bids, and subsequently documenting, and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 In consultation with the Owner, the Architect shall consider requests for substitutions if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders and Owner. The Architect shall review, in conjunction with the Owner, the Owner's representative, if appropriate, and the Construction Manager at Risk or Contractor, alternative approaches to design and construction of the Project in order to preserve the Scope of the Work, the Scope of the Project and the quality of the construction within Owner's overall budget for the Project.

§ 3.5.3 Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents. The Contract Documents are enumerated in the Agreement, as amended, between the Owner and Architect (hereinafter the Agreement) and consist of the Owner/Contractor Agreement, Conditions of the Contract, as amended, (General, Supplementary and other Conditions), all sections of the Project Manual, including Drawings, Specifications, and

Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract.

§ 3.5.3.2 If requested by Owner, Architect shall assist the Owner in obtaining proposals by:

- .1 providing a digital copy of the Proposal Documents for distribution to prospective proposers/contractors and plan rooms and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective proposers;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 evaluating proposals, participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 In consultation with the Owner, the Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and prepare and distribute addenda identifying approved substitutions to all prospective contractors and Owner. The Architect shall review, in conjunction with the Owner, the Owner's representative, if appropriate, and the Construction Manager at Risk or Contractor, alternative approaches to design and construction of the Project in order to preserve the Scope of the Work, the Scope of the Project, and the quality of the construction within Owner's overall budget for the Project.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction, as amended for the Project, and as specified in Section 3.1.6 herein. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. If any conflict arises between this AIA Document B101-2017 and AIA Document A201-2017, this agreement shall control to the extent affecting Architect's services. While on Owner's property and throughout Architect's services under this Agreement, the Architect shall comply with all policies, regulations, and rules of the Owner, including, but not limited to, those related to employee conduct (such as prohibitions against alcohol, weapons, drugs, fraternization, harassment, and tobacco on school property), and prohibitions against fraud and financial impropriety.

§ 3.6.1.2 The Architect shall be a representative of, and shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work. Any services by Architect made necessary due to Architect's failure to discover a construction defect or nonconforming work in accordance with the Standard of Care shall be at no additional cost to Owner. Any services by Architect made necessary by Architect's design errors or omissions in accordance with the Standard of Care shall be at no additional cost to Owner.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect, or his authorized representative, as a representative of the Owner, shall visit the site at least once per week (or more per week when deemed necessary by the Owner's representative or when necessary to protect Owner's interest), and at other intervals appropriate to the stage of the Contractor's operations (1) to observe the progress, quantity and quality of the Work completed; (2) to reject any observed nonconforming Work; (3) to become familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (4) to guard the Owner against defects and deficiencies in the Work, (5) to determine if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents and on

time, and (6) to document progress of the Work, in written and photographic form. Furthermore, a minimum of two job site meetings per month from commencement of construction through Final Completion will be initiated by the Architect. Attendees will include Owner, the Contractor's project manager and/or Owners representative, Architect's project representative, and Architect. Architect or his authorized representative will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition, Architect or his authorized representative will provide on-site observations prior to covering up or closing up of portions of the construction that, if covered, would conceal problems with the structural integrity of the Project. Architect will advise Owner of the need for any third-party laboratory or testing services to assist the Architect, and will assist Owner in development of Requests for Proposals or other solicitations for any required testing services approved by Owner. On the basis of the site visits, on-site observations, or inspections by the Architect, Architect shall keep Owner and Owner's Contractor informed of the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. Architect shall guard Owner against defects and deficiencies in the Work, and shall promptly notify Owner and Contractor orally regarding the defect or nonconforming Work, which notice shall be followed by notice in writing of defects and nonconforming work noted and corrective actions taken or recommended. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents. Any services by Architect made necessary due to Architect's failure to discover a construction defect or nonconforming work, when Architect knew or should have known of the defect or nonconforming work, shall be at no additional cost to Owner. Any services by Architect made necessary by Architect's design errors or omissions shall be at no additional cost to Owner.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall recommend to Owner additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Construction Manager at Risk, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. Architect shall promptly notify Owner and Contractor, orally and in writing, of any observed fault or defect in the Project or nonconformance with Contract Documents, upon discovery of the defect or nonconformance, and shall notify Owner of all corrective actions taken or recommended. The testing or inspections required by this Section are subject to the requirements of Chapter 2269 of the Texas Government Code.

§ 3.6.2.3 The Architect shall interpret and make recommendations to Owner regarding matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and recommendations of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and recommendations, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, and shall not be liable for results of interpretations or recommendations rendered in good faith. The Owner's decisions on matters relating to aesthetic effect shall be final.

§ 3.6.2.5 The Architect shall promptly render initial written recommendations or interpretations on Claims, disputes, or other matters in question between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall observe the progress of the Work, evaluate, review and certify the amounts due the Contractor and shall sign and issue Certificates for Payment in such amounts if such amounts are valid, correct, and deemed due and owing, in Architect's professional opinion, within seven (7) days of receipt of Contractor's application for payment. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's observations and/or evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, the Work has progressed to the point indicated, and in Architect's professional opinion the quality of the Work is in accordance with the Construction Documents and the

Contract Documents and evaluated and certified that the amounts requested in the Application for Payment are valid and correct, in the Architect's professional opinion. If Architect disputes the Contractor's payment application in whole or in part, Architect shall provide in writing to Owner and Contractor a detailed statement of the Architect's reason for withholding certification in accordance with Texas Government Code §2251.042(a) and as provided in §§9.4.1 and 9.5.1 of the AIA A201 for the project. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect in writing to Owner.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, for the purpose of checking for conformance with information given and the design concept expressed in the Contract Documents and all laws, statutes, codes and requirements applicable to Architect's design services. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review. If it is determined that any submittal does not comply with the requirements of the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples. The Architect is not authorized to approve changes involving major systems such as HVAC, roof, foundation, outward appearance, color schemes, floor plans, building materials, or mechanical equipment without Owner's prior written consent.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect shall not be required to review submittals that are not requested by the Contract Documents.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such

requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain all records of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 With notice and consent of Owner, the Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.5.3 The Architect shall accept requests by the Owner, and shall review properly-prepared, timely requests by the Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly-prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Construction Documents or the Contract Documents, then the Architect may issue an order for a minor change in the Work, with prior written notice to the Owner, or recommend to the Owner that the requested change be denied.

§ 3.6.5.4 If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, then the Architect shall make a recommendation to approve or deny the requested change to the Owner. Based upon information furnished by the Contractor, if any, the Architect shall estimate the additional cost and time that might result from such change, including any additional costs attributable to Additional Services of the Architect. If the Architect recommends approval, then the Architect shall incorporate those estimates into a proposed Change Order or other appropriate documentation for the Owner's Board of Trustees' approval and execution.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion and of Final Completion, using Owner's or State forms, and ensure Contractor gives its notarized signature on its Certification of Substantial or Final Completion;
- .3 receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.
- .5 For any Work that exceeds \$50,000, Architect shall schedule and ensure completion of inspections with the Texas Department of Licensing and Regulation as required by Texas Government Code Section 469.105.
- .6 Owner, Architect, Contractor, and prime subcontractors, if applicable, shall certify compliance with all applicable school facility standards required in 19 TAC Section 61.1040 subsections (d) and (g)-(k). 19 TAC Section 61.1040(f).
- .7 Architect certifications. Architect shall certify the following, as required by 19 TAC 61.1040(f)(1)(B):
 - (i) Certifications related to educational adequacy under subsection (d) of 19 TAC 61.1040. The Architect for a capital improvement project shall certify compliance that the project has been

- designed in reasonable accordance with the long-range facility plan and educational specifications, if applicable.
- (ii) Certifications related to standards for space for instructional facilities under subsection (g) of 19 TAC Section 61.1040 and to standards associated with the method of compliance approved by the Owner’s Board of Trustees for instructional facility space under subsection (h) of 19 TAC Section 61.1040 related to the quantitative method of compliance or under subsection (i) of 19 TAC Section 61.1040 related to the qualitative method of compliance. To provide adequate instructional spaces and adequate space in instructional facilities, the Architect shall certify compliance that the Project has been designed in reasonable accordance with the standards for space in subsection (g) of 19 TAC Section 61.1040 and with the standards associated with the method of compliance approved by the Owner’s board of trustees under subsection (h) or (i) of 19 TAC Section 61.1040.
 - (iii) Certifications related to safety and security standards under subsection (k) of 19 TAC Section 61.1040. A design professional of record shall certify compliance that the Project has been designed in reasonable accordance with any required safety and security directives approved by the Owner in accordance with subsection (k) of 19 TAC Section 61.1040.

§ 3.6.6.2 The Architect’s inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Prior to the expiration of six months from the date of Substantial Completion, prior to the expiration of ten months from the date of Final Completion, and upon request of the Owner at any other time within one year of Final Completion, the Architect shall meet with the Owner and the Owner’s Designated representative to review the facility operations and performance; to identify defects, warranty issues, and proposed corrections; and to make appropriate written recommendations to the Owner.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are included in Basic Services. The Architect shall not be entitled to additional compensation for Services listed below unless otherwise indicated, or if such Services are not required for this project or approved by Owner.

(Designate the Architect’s Supplemental Services and the Owner’s Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services in Schedule A, to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect
§ 4.1.1.2 Multiple preliminary designs	Architect
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Architect
§ 4.1.1.5 Site evaluation and planning	Architect
§ 4.1.1.6 Building Information Model management responsibilities	Architect

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.7 Development of Building Information Models for post construction use	Architect
§ 4.1.1.8 Coordination of Civil engineering services	Architect
§ 4.1.1.9 Landscape design	Architect
§ 4.1.1.10 Architectural interior design	Architect
§ 4.1.1.11 Value analysis	Architect
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Architect
§ 4.1.1.14 Conformed documents for construction	Not Provided
§ 4.1.1.15 As-designed record drawings	Architect
§ 4.1.1.16 As-constructed record drawings	Not Provided
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Architect
§ 4.1.1.21 Telecommunications/data design	Architect
§ 4.1.1.22 Security evaluation and planning	Architect
§ 4.1.1.23 Commissioning	Not Provided
<i>(Row deleted)</i>	
§ 4.1.1.25 Fast-track design services	Not Provided
<i>(Row deleted)</i>	
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.29 [Intentionally deleted]	
<i>(Row deleted)</i>	
§ 4.1.1.30 [Intentionally deleted]	
<i>(Row deleted)</i>	

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1

(Paragraphs deleted)

Refer to Schedule A

§ 4.1.2.2

(Paragraphs deleted)

[Intentionally deleted]

§ 4.1.3 [Intentionally deleted]

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a significant change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revisions or amendments of codes, laws, or regulations, which occur after the issue of applicable building permits, including changing or editing and result in substantial revisions to previously prepared Instruments of Service;
- .3

(Paragraphs deleted)

Consultation concerning replacement of Work resulting from fire or other cause during construction; and

- .4 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification.

§ 4.2.2

(Paragraphs deleted)

[Intentionally deleted]

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Five (5) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 One (1) visit to the site by the Architect per week during construction unless more visits per week are deemed necessary by the Owner in accordance with § 3.6.2.1.
- .3 Five (5) inspections for each portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Five (5) inspections for each portion of the Work to determine final completion.

§ 4.2.4 [Intentionally deleted]

§ 4.2.5 [Intentionally deleted]

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, as required by 19 Texas Administrative Code Section 61.1040. The Architect shall review the program and specifications furnished by Owner to ascertain the specific requirements of the Project and shall arrive at a mutual written understanding of such requirements with Owner. Architect shall include all components of Owner's program in the Project, unless specific written agreement to delete a component is received from Owner.

§ 5.2 The Owner shall establish and update the Owner's budget for the Project when required, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. Owner's Board of Trustees is the only representative of Owner, an independent school district, having the power to enter into or amend a contract, to approve changes in the Scope of the Work, to approve and execute a Change Order or Construction Change Directive modifying the Contract Sum or Guaranteed Maximum Price, agree to an extension of the dates of Substantial Completion or Final Completion, or approve changes in the Architect's compensation. Owner's Board of Trustees may designate one or more representatives with authority to sign documents after Board approval and/or to advise and

consult with Architect for day-to-day operations under the agreement. Owner's Board of Trustees hereby delegates to the Superintendent the authority to approve minor contract revisions, which may arise after execution of the contract, that do not affect the material terms of the contract. Any such revisions shall be reviewed by the Board's legal counsel, confirmed in writing between the Architect and Owner's Superintendent or designee, and notice of such approved revisions shall be given to the Board of Trustees."

Owner's designated representative to sign contracts:

Name: Dr. Scott Muri Title: Superintendent, or designee.

Owner's designated representative for day-to-day operations:

Name: Dr. Scott Muri Title: Superintendent, or designee.

§ 5.4 Upon written request of the Architect, the Owner shall furnish surveys known to the Owner describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. Other than the metes and bounds noted in the legal description of the site, the Architect shall not be entitled to rely on the accuracy of information furnished by the Owner, but shall exercise proper precautions relating to the safe performance of the Work. Other than the metes and bounds noted in the survey if any, Owner does not guarantee the accuracy of surveys provided, including the locations of utility lines, cables, pipes or pipelines or the presence or absence of easements. Architect shall review this information and shall provide to Owner a written request for additional information needed, if any, for Architect to adequately perform services hereunder. Upon receipt of this request, the Owner will procure and provide to the Architect the information requested.

§ 5.5 The Owner may furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 [Intentionally deleted]

§ 5.7 [Intentionally deleted]

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports that are required by law or the Contracts to be furnished by the Owner. To the extent that tests, inspections and reports are not required by law or the Contract Documents to be furnished by Owner, but are deemed necessary by the Architect or Owner, then they shall be furnished by Architect, unless Architect receives Owner's written permission to charge Owner for the services or Owner agrees to separately contract for the services.

§ 5.10 Unless otherwise provided in this Agreement the Owner may, in its sole discretion furnish legal and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service, and

Architect shall have the reasonable amount of time required by Texas Government Code Chapter 2272 to cure its errors, omissions, or inconsistencies as a precondition to any dispute resolution proceeding involving Owner and Architect. Architect acknowledges that he is the leader of the design team and is responsible for the design of the Project. Therefore, Owner shall be entitled to rely on the Construction Documents, services, and information furnished by the Architect. This Section shall not relieve Architect of any responsibility or liability for the performance of Architect's contracted services on the Project, in accordance with the Standard of Care.

§ 5.12 The Owner shall endeavor to include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall endeavor to promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 [Intentionally deleted]

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of the Architect's compensation, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and constructed by the Owner, and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. To the extent that the Project is not completed or constructed, the Cost of the Work shall include the estimated cost to the Owner of all elements of the Project designed by the Architect and accepted by the Owner but not constructed by the Owner. The Cost of the Work does not include elements of the Project designed by Architect but not accepted by the Owner. The Cost of the Work does not include the compensation of the Architect or Architect's consultants; the costs of the land, rights-of-way, financing, or unused contingencies for changes in the Work, alternate designs of the Architect that are not constructed or accepted by the Owner; or other costs that are the responsibility of the Owner. For purposes of the Architect's compensation, the Cost of the Work shall not include the fee for management and supervision of construction or installation provided by a separate Owner representative. For purposes of the Architect's compensation, the Cost of the Work shall include the Owner's cost of labor and materials furnished by the Owner in constructing portions of the Project, if the Work is designed and construction is overseen by Architect. For purposes of the Architect's compensation, the Cost of the Work shall only include the Owner's cost of fixtures, furnishing and equipment designed by the Architect, at the request of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as allowed under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary opinion of the Cost of the Work and updated opinions of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, if the Architect's design is determined to exceed Owner's budget, then Architect agrees to redesign the Project, at Architect's expense and as a part of Architect's Basic Services, to meet Owner's budget.

§ 6.3 The Architect, and the Construction Manager at Risk, if applicable, shall prepare a preliminary opinion of the Cost of the Work, which shall incorporate Owner's budgetary constraints, programmatic needs, and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. As the design process progresses through the end of the preparation of the Construction Documents, the Architect, and, if applicable, the Construction Manager at Risk, shall update and refine the preliminary opinion of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous opinions of the Cost of the Work indicated by changes in Project requirements or general market conditions. The Architect shall cooperate with Owner and, if applicable, the Construction Manager at Risk, in developing and designing the Project to, in accordance with the Standard of Care,

satisfy Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. In preparing opinions of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project with the prior consent of Owner's Board of Trustees, or designee; and to include design alternates as may be necessary to adjust the opinion of the Cost of the Work to meet the Owner's budget.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work may be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's opinion of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, then the Architect shall redesign elements to achieve cost savings within the Scope of the Work, but in doing so, shall not delete any essential elements of the Project, without the Owner's knowledge and written consent. Architect shall present the redesign to Owner for Owner's approval and, in doing so, shall notify Owner in writing of the actions taken to bring the Project into Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality or budget. Owner shall consider Architect's recommendation, but shall decide, in its discretion, what adjustments to make.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal prior to commencement of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time, and/or authorize a different construction procurement method, consistent with State law;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work;
- .5 implement any other mutually acceptable alternative; or
- .6 direct the Architect to redesign the Project to meet the Owner's budgetary, programmatic and quality needs.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4 or 6.6.5, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents before the commencement of the Work shall be the limit of the Architect's responsibility under this Article 6.

§ 6.8 If, after commencement of the Work, the Cost of the Work is exceeded due to the negligent errors or omissions of the Architect, in accordance with the Standard of Care, then the Architect shall bear financial responsibility to Owner for the increases in the Cost of the Work, except for all materials, labor, and overhead related to the betterment obtained by the Owner. By way of example, the Architect shall bear responsibility for the difference between what would have been the original cost of that portion of the Work, but for Architect's negligent error or omission, in accordance with the Standard of Care, and the actual cost of that portion of the Work performed to remedy the negligent error or omission. Further, Architect shall not be entitled to Architect's fee for the excess Cost of the Work. Unless Architect disputes the amounts due pursuant to the alternative dispute resolution process provided in Article 8 of this Agreement, as amended, Owner shall be entitled to withhold from sums due to Architect the amounts detailed above.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Construction Documents, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

FORM A for Sections 7.2 to 7.5 (___)

FORM B FOR SECTIONS 7.2 to 7.4 (X)

(Paragraphs deleted)

§ 7.2 Architect shall provide to Owner, as a "Work Made for Hire," all Drawings, specifications, submittals, transmittals, deliverables, instructions to Contractor of Architect and Architect's consultants (including the necessary number of paper copies and electronic format copies), and other documents hereinafter "Construction Documents," that are within Architect's scope of services and are sufficient for Owner to complete construction of the Project and are free from material defects or omissions. The Construction Documents for this Project are the property of the Owner whether or not the Project is completed and whether or not Architect's Agreement is terminated. The Owner shall be furnished and permitted to retain reproducible copies and electronic versions of the Construction Documents. Only the signature details, standard details and form specifications of the Construction Documents relating to this Project may be used by the Architect on other projects, but they shall not be used as a whole without written authorization by the Owner. Owner-furnished forms, conditions, and other written documents shall not be used on other projects by the Architect without written authorization by the Owner. Owner hereby owns all common law, statutory, or other reserved rights, including copyrights, pertaining to the Construction Documents; provided, however, Owner hereby assigns to Architect the right to enforce Owner's copyright in the Construction Documents and agrees to reasonably cooperate with Architect in any proceedings related to such enforcement.

§ 7.3 The Construction Documents may be used as a prototype for other facilities by the Owner. The Owner may elect to use the Architect to perform the site adaptation and other professional services involved in reuse of the prototype. If so, then the Architect agrees to perform the work for an additional compensation that will fairly compensate the Architect and its consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be significantly less than the fee provided for under this Agreement. If the Owner elects to employ a different architect to perform the site adaptation and other professional services involved in reuse of the prototype, then that architect may use Architect's consultants on the same basis that the Architect would have been entitled to use them for the work on the reuse of the prototype, and such architect will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the Construction Documents, approved shop drawings and calculations, and "as built" in performing its work. The Architect will not be responsible for errors and omissions of a subsequent architect. The Architect shall endeavor to commit its consultants to the terms of this Section and shall notify Owner in writing if Architect is unable to do so. In the event of termination of this Agreement for any reason, the Owner shall receive all original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete the Project.

§ 7.4 The Owner shall be free to use said Construction Documents for Owner's purposes, but shall not assign, delegate, sublicense, pledge or otherwise transfer said Construction Documents, including any underlying copyright or license granted herein, to another party for use by any party other than on behalf of Owner. The Owner may use the Construction Documents for future additions or alterations to this Project or for other projects constructed by Owner. The Owner's privilege to use said Construction Documents extends to their use with and by other architects on Owner's projects only.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the dispute resolution method selected in this Agreement and within the period specified by this Agreement and by Texas law, but in any case not more than 8 years after the date of Substantial Completion of the Work, unless extended in accordance with Texas Civil Practice and Remedies Code Section 16.008. The Owner and Architect waive all causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.1.1 All claims, disputes, or matters in controversy between Owner and Architect shall be discussed by the parties in good faith, in an attempt to resolve the claim, dispute, or controversy. In the event such claim, dispute, or controversy cannot be resolved by good faith discussion between the parties, any such claim, dispute or matter in controversy shall be subject to the Owner's grievance policy GF (LEGAL) and (LOCAL) or any other applicable policy and regulations as designated by Owner, and the timelines established in the policy. Level I of the grievance process will be conducted by the Superintendent's designee or the Superintendent, as appropriate. Level II shall be heard by the Superintendent, unless he heard Level I. If the Superintendent heard Level I, then the grievance will proceed to the Owner's Board at Level III. If Architect is dissatisfied with the outcome of Owner's grievance process,

then any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to the institution of legal or equitable proceedings by either party.

§ 8.1.1.2 Architect stipulates that Owner is a political subdivision of the State of Texas, and, as such, may enjoy immunities from suit and/or liability under the Constitution and laws of the State of Texas. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 8.1.2 Only to the extent damages are fully covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction, as amended for this Project, and if applicable. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect waives consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This waiver is applicable, without limitation, to all consequential damages due to Owner's termination of this Agreement. In any litigation (or arbitration if mutually agreed upon in writing) arising under this Agreement, the types and amounts of damages recoverable shall be subject to Subchapter I of Texas Local Government Code Chapter 271.

§ 8.1.4 In any litigation under this Agreement, reasonable and necessary attorneys' fees may be awarded to the prevailing party.

§ 8.1.5 When Owner has an applicable claim for construction defects, Owner shall comply with the provisions of Texas Government Code Chapter 2272 related to the provision of notice of defects and the Contractor's or Architect's opportunity to cure.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to the institution of legal or equitable proceedings, unless the filing deadlines under applicable statutes of limitation and/or repose would otherwise expire. If suit is filed before mediation in order to avoid expiration of limitations and/or repose, then the parties agree to submit the matter to mediation as soon as reasonably possible. Claims for injunctive relief shall not be subject to this Section.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the mutually-acceptable person or entity administering the mediation. In the event the parties are unable to agree on a mediator, then the mediation shall be conducted by either the Center for Public Policy Dispute Resolution at the University of Texas School of Law or by a mediator selected by a local district court judge upon the joint request of the parties. The request shall be made within 30 days after the completion of Owner's grievance process. In no event shall the request for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute, or other matter in controversy would be barred by applicable statutes of limitation.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the county where Owner's main administrative office is located, unless another location is mutually agreed upon. Mediation shall be subject to and in accordance with Chapter 154 of the Texas Civil Practice & Remedies Code. Agreements reached in mediation shall be reduced to writing, considered for approval by the Owner's Board of Trustees, signed by the parties if approved by the Board of Trustees, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

§ 8.2.4

(Paragraphs deleted)

The parties agree that any claim, dispute, or other matter in controversy between them shall not be subject to mandatory arbitration. The parties may, however, mutually agree in writing to submit such claims, disputes, or matters in controversy to arbitration. Neither party may compel the other to arbitrate any claim, dispute, or matter in controversy between them.

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

[X] Litigation in a court of competent jurisdiction

(Paragraphs deleted)

§ 8.2.5 [Intentionally deleted]

§ 8.3 [Intentionally deleted]

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make timely payments to the Architect for undisputed sums in accordance with this Agreement, and Texas law, such failure shall be considered substantial nonperformance and cause for termination if not cured after ten (10) days written notice to Owner of the delinquency. Architect shall be allowed to suspend Architect's performance of services under this Agreement for nonpayment by Owner only after the provision of ten (10) days' written notice, in accordance with Texas Government Code section 2251.051 *et seq.* In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules may be equitably adjusted.

§ 9.2 If the Owner suspends the Project for more than ninety (90) consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. The Architect's fees for the remaining services and the time schedules may be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 consecutive days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than twenty-one (21) days' written notice and opportunity to cure should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause. The Owner may also terminate this Agreement on seven days' written notice if the budget for the Cost of the Work, prior to commencement of the Work, is exceeded by the lowest bona fide bid or negotiated proposal.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, together with Reimbursable Expenses then due.

§ 9.7

(Paragraphs deleted)

The parties hereby agree that: 1) if an order for relief is entered on behalf of the Architect, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Architect makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Architect's performance. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Architect adequate assurance of future performance in accordance with the terms and conditions of this Agreement. Failure to comply with such request within ten (10) days of delivery of the request shall entitle Owner to terminate the Architect's services in accordance with this Section.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Final Completion.

§ 9.9 The Owner's rights to use the Architect's Construction Documents in the event of a termination of this Agreement are set forth in Article 7, Section 11.9.

§ 9.10 This Agreement may be terminated by Owner if Architect engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Texas. Mandatory and exclusive forum and venue for any dispute resolution arising out of or related to this Agreement shall be in the state district courts of Ector County.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction as amended for the Project. As a material consideration of the making of this Agreement, the Modifications to this Agreement shall not be construed against the drafter of said Modifications.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other.

§ 10.4 If the Owner requests the Architect to execute certificates, the language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall execute certificates or consents consistent with the Architect's standard of care pursuant to this Agreement .

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site, unless Architect knew, directed, or specified that, or allowed such hazardous materials be used in the Project. Architect shall promptly disclose in writing to Owner any hazardous materials specified for the Project or discovered on site, regardless of the date of discovery or the date on which Architect learns of the hazardous nature of the materials.

§ 10.7 With prior written consent of the Owner, such consent not to be unreasonably withheld, the Architect may include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations, but may not photograph students without prior written parental consent. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. Owner provides notice that confidential and proprietary information shall include, but shall not be limited to, all items listed in Section 10.8. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information. The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public, or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants similar written agreements to maintain the confidentiality of information specifically designated as confidential by the Owner. Owner herein designates the following as confidential information: security measures; security access codes; pending real estate

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purchases, exchange, lease or value; any information pertaining to litigation; student likenesses and student record information; employee information; and any other information deemed confidential by law. As to Owner, the parties acknowledge that, as a public entity in the State of Texas, Owner is subject to, and must comply with, the provisions of the Texas Public Information Act, Texas Government Code Chapter 552 et seq. and the Texas Open Meetings Act, Texas Government Code, Chapter 551 et. seq.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

§ 10.10 NO LIENS. The parties agree that no architect, engineer, mechanic, contractor, materialman, artisan, laborer or subcontractor, whether skilled or unskilled, shall ever, in any manner have, claim or acquire any lien upon the Project of whatever nature or kind so erected or to be erected by virtue of this Agreement, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the State of Texas, or upon any funds of Owner.

§ 10.11 APPLICABLE LAW. This Agreement is subject to all applicable federal and state laws, rules, and regulations. Invalidity of any portion of this Agreement under the laws of the State of Texas or of the United States shall not affect the validity of the remainder of this Agreement.

§ 10.12 CONFLICT OF DOCUMENTS. To the extent of conflicts between the Contract Documents, amendments shall prevail over original forms.

§ 10.13 It is understood and agreed that the relationship of Architect to Owner shall be that of an independent contractor. Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Architect the servant or employee of the Owner; or 2) create any partnership, joint venture, or other association between Owner and Architect. Any direction or instruction by Owner or any of its authorized representatives in respect to the Architect's services shall relate to the results the Owner desires to obtain from the Architect, and shall in no way affect the Architect's independent contractor status.

§ 10.14 No delay or omission by either of the parties hereto in exercising any right or power accruing upon the noncompliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

§ 10.15 Pursuant to Texas Education Code Section 44.034, Architect must give advance written notice to the Owner if the Architect or an owner or operator of the Architect has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Architect failed to give such notice or misrepresented the conduct resulting in the conviction. This paragraph requiring advance notice does not apply to a publicly-held corporation.

§ 10.16 CHILD SUPPORT. By signing this Agreement, the undersigned certifies as follows: Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

§ 10.17 By executing this Agreement, Architect verifies that Architect does not boycott Israel or any Israeli-controlled territory, and will not boycott Israel or any Israeli-controlled territory during the term of this Agreement. Pursuant to Texas Government Code, Chapter 2271, as amended, if Architect is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Architect represents and warrants to the Owner that the Architect does not boycott Israel and will not boycott Israel during the term of this Agreement.

§ 10.18 Architect verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Architect misrepresents its inclusion on the list, then such omission or misrepresentation shall void this Agreement.

§ 10.19 The Architect verifies by its signature below that it is not an abortion provider or an affiliate of abortion providers.

§ 10.20

.1 By entering into this Contract, pursuant to Texas Government Code 552, Subchapter J, the Architect agrees to be bound by the following terms if the Contract has a stated expenditure of at least \$1,000,000 for the purchase of goods or services by the District or if the Contract results in the expenditure of at least \$1,000,000 in public funds for the purchase of goods or services by the District in a fiscal year of the District. If the District receives a written request for public information related to this Contract that is in the possession or custody of the Architect and not in the possession or custody of the District, the District shall send, not later than the third business day after the date the District receives the written request, a written request to the Architect that Architect provide that information to the District.

.2 The Architect must:

.1 Preserve all contracting information related to the Contract as provided by the records retention requirements applicable to the District for the duration of the Contract;

.2 Promptly, within four business days, provide to the District any requested contracting information that is in the custody or possession of the Architect upon request of the District; and,

.3 On completion of the Contract, either:

.1 Provide to the District at no cost all contracting information related to the Contract that is in the custody or possession of the Architect; or

.2 Preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the District.

.3 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract and the Architect agrees that the contract can be terminated if the Architect knowingly or intentionally fails to comply with the requirements of that subchapter.

.4 Further, under Texas Government Code Chapter 552.372(c), the District may not accept a bid for or awarding of a contract to an entity that the District has determined has knowingly or intentionally failed in a previous bid or contract to comply with Subchapter J, unless the District determines and documents that the entity has taken adequate steps to ensure future compliance.

.5 If an Architect fails to provide to the District the requested information, Texas Government Code Chapter 552.373 requires the District to notify the Architect in writing of the failure and allow 10 business days to cure the violation. District may terminate the Contract if Architect fails to remedy the failure, District

determines the failure was knowing and intentional, and steps have not been taken to ensure future compliance.

.6 If Architect is not a sole proprietorship, has ten (10) or more employees, and the value of Contractor's bid or proposal has a value of \$100,000 or more, Contractor certifies by submitting Contractor's bid or proposal that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined by Texas Government Code Ann. Chapter 2274, and will not during the term of any contract with the Owner, unless excepted from that law.

.7 As required by Texas Government Code Ann. Chapter 2274, if Contractor has ten (10) or more employees, is not a sole proprietorship, and if the value of Contractor's bid or proposal has a value of \$100,000 or more, Contractor certifies by submitting Contractor's bid or proposal that it does not boycott energy companies and will not during the term of any contract with the Owner, unless excepted by that law.

§ 10.21.1 CRIMINAL HISTORY RECORD CHECKS

§ 10.21.1 So that Owner can obtain the national criminal history record information required by Texas Education Code Section 22.0834 on all "covered employees" (as defined in Section 10.21.3) of Architect, its subcontractors, or any subcontracting entities who will perform Architect's services, Architect shall submit to Owner the name and all necessary identifying information necessary to enable Owner to obtain the national criminal history information on those covered employees before they begin the Architect's services. Architect's submission will include the employee's written authorization for Owner to obtain such criminal history information. Owner may, in its sole discretion, prohibit the use of any employee to perform the Architect's services after its review of the criminal history information, but cannot disclose the criminal history information to Architect. Architect shall reimburse Owner for Owner's costs incurred in obtaining the criminal history information.

§ 10.21.2 Architect will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to perform Architect's services. If Architect receives information that a covered employee has a reported disqualifying criminal history, then Architect will immediately remove the covered employee from the Project and notify the Owner in writing within three business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Architect agrees to discontinue using that covered employee to provide services on Owner's Project. If Architect has taken precautions or imposed conditions to ensure that the employees of Architect and any Architect consultant will not become covered employees, Architect will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 10.21.3 For the purposes of this Section, "covered employees" means employees, agents, or applicants of Architect who have or will have continuing duties related to the services to be performed on Owner's Project and have or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. The definition of "covered employees" does not include individuals working on the Work: (1.) does not involve the construction, alteration, or repair of an instructional facility as defined herein; (2.) involves construction of a new instructional facility and the persons duties related to other contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or (3.) involves an existing instructional facility and: (a.) the work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and (b.) the contracting entity adopts a policy prohibiting employees, contractors, and subconsultants from interacting with students or entering areas used by students, informs employees, contractors, and subconsultants of the policy, and enforces the policy at the work area. "Disqualifying criminal history" means: any conviction or other criminal history information designated by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification under Texas Education Code Section 21.060, and 19 Texas Administrative Code Section 249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in public school; a felony offense under Texas Penal Code Title 5 Offense Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or an equivalent offense under federal law or the laws of another state; or a felony violation of Texas Penal Code Section 43.24 related to the sale, distribution or display of harmful material to a minor. The term

"instructional facility" means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under the state curriculum for kindergarten through grade 12.

§ 10.21.4 Architects violation of this section shall constitute a substantial failure under Article 14 of AIA Document A201-2017, General Conditions of Contract for Construction, as amended by Owner for this project.

§ 10.21.5 Architect shall assume all expenses associated with the background checks.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3 and supplemental services under § 4.1, the Owner shall compensate the Architect for all undisputed payments as set forth below. To the extent Owner disputes any payment allegedly due, Owner shall notify Architect that a dispute exists, shall list the specific reason for nonpayment, and shall give Architect an opportunity to cure the noncompliance or offer compensation for noncompliance that cannot be cured, in accordance with Texas Government Code Chapter 2251. Owner shall further have the right to withhold payments as specified in Sections 6.8 and 11.10.2.2 of this Agreement.

.1

(Paragraphs deleted)

[Intentionally deleted]

.2 Percentage Basis –

(6.5) % based on approved fee schedule and new construction of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project accepted by the Owner shall be payable in accordance with Section 6.1 herein;

Compensation shall be paid based on the percentage of the services actually completed by Architect. Progress payments for services in each phase for services completed shall total the percentages applicable to each phase of Architect's services in 11.5.

.3 Other

(Describe the method of compensation)

N/A

§ 11.2

(Paragraphs deleted)

[Intentionally deleted]

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

As agreed between the parties in writing, executed prior to the Architect beginning performance of the Additional Services. Compensation of additional services will be based on hourly rate as described in Schedule B, with not-to-exceed maximum agreed upon by both parties.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.3, shall be the amount invoiced to the Architect or as follows:

(Insert amount of, or basis for computing, Architect's consultants' compensation for Additional Services.)

N/A

§ 11.4.1 The Architect shall invoice for site/civil engineering services rendered by their site/civil engineer of record with zero (0%) percent markup.

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	fifteen	percent (	15	%)
Design Development Phase	twenty-five	percent (	25	%)
Construction Documents Phase	thirty	percent (	30	%)
Procurement Phase	five	percent (	5	%)
Construction Phase	twenty-five	percent (	25	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 [Intentionally deleted]

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Refer to attached Schedule B
(Table deleted)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 [Intentionally deleted];
- .2 [Intentionally deleted];
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing and reproductions, plots, and standard form documents of Construction Documents, other than those required to be provided by Architect under this Agreement;
- .5 Postage, handling, and delivery of Construction Documents, other than those required to be provided by Architect under this Agreement;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance in writing by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner after Architect's provision of one artist's rendering or mock-up of each building in the Project;
- .8 [Intentionally deleted];
- .9 [Intentionally deleted];
- .10 [Intentionally deleted];
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective.
- .12 [Intentionally deleted].

§ 11.8.2 For Reimbursable Expenses the compensation shall be only the actual expenses incurred by the Architect and the Architect's consultants.

§ 11.9

(Paragraphs deleted)

Compensation For Use Of Architect's Instruments Of Service. The parties agree that Architect's compensation for Basic Services includes all licensing fees for Owner's use of the Construction Documents, including use after termination of this Agreement, to the extent allowed by this Agreement.

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 [Intentionally deleted]

§ 11.10.1.2 [Intentionally deleted]

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments for undisputed amounts are due and payable within thirty (30) days after receipt of the Architect's invoice by Owner's designated representative. Undisputed amounts unpaid more than Thirty (30) days after Owner's receipt of the invoice shall bear interest at the rate entered

(Paragraphs deleted)

below specified by Texas Government Code § 2251.025 or its successor.

(NOTE: Per Texas Government Code Section 2251.025, these blanks should be filled in with "30" if the school board meets more often than once per month and with "45" if the school board meets once per month.)

§ 11.10.2.2 The Owner may withhold payments after appropriate notice as to the reasons for the withholding, to the Architect for the purposes of reimbursing Owner for any damages caused by the Architect, for changes in the Cost of the Work which result in Architect's compensation being reduced, for Architect's failure to comply with the provisions of any part of this Agreement, if a claim has been filed against Architect, or to secure performance of Architect's services and obligations under any part of this Agreement.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be provided to the Owner upon presentation of Architect's progress payment applications.

§ 11.11 Architect shall reasonably cooperate with Owner, at no additional cost to Owner, in connection with a legal proceeding against Owner that relates to the Project.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

§12.1 INDEMNITY. Approval of any Construction Documents by Owner shall not constitute and shall not be deemed to be a release of the responsibility and liability of Architect, its agents, employees, and subcontractors, for Construction Documents which are sufficient for Owner to complete the construction of the Project and are free from material defects or omissions, nor shall such approval be deemed to be an assumption of such responsibility and liability by Owner for any defect in the Construction Documents prepared by Architect, its agents, employees, subcontractors, or consultants, it being the intent of the parties that the approval by Owner signifies Owner's approval of only the general design concept of the improvements to be constructed. In this connection, ARCHITECT SHALL, DURING THE CONSTRUCTION OF SAID PROJECT AND FOR A PERIOD OF EIGHT YEARS AFTER SUBSTANTIAL COMPLETION INDEMNIFY AND HOLD HARMLESS OWNER AND ALL OF ITS OFFICERS, TRUSTEES, AGENTS, REPRESENTATIVES, SERVANTS, AND EMPLOYEES FROM ANY LOSS, DAMAGE, LIABILITY, OR EXPENSE, INCLUDING REASONABLE ATTORNEY'S FEES, INCURRED BY OWNER ON ACCOUNT OF DAMAGE OR DESTRUCTION TO PROPERTY AND INJURIES, INCLUDING DEATH, TO ANY OR ALL PERSONS, INCLUDING INVITEES AND EMPLOYEES OF THE OWNER, CONTRACTOR, ARCHITECT, OR SUBCONTRACTORS AND OF ALL OTHER PERSONS PERFORMING ANY PART OF THE WORK, THAT IS CAUSED BY OR RESULTS FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER, COMMITTED BY THE ARCHITECT, OR THE ARCHITECT'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL; provided and except, however, that this indemnification provision shall not be construed as requiring Architect to indemnify or hold Owner harmless for any

loss, damage, liability, or expense on account of damaged property or injuries, including death to any person, which may arise out of or may be caused by any act of negligence or breach of obligation under this Agreement by Owner or Owner's employees or agents, except Architect.

§ 12.2 THE PROVISIONS OF SECTION 12.1 IN ITS ENTIRETY SHALL SURVIVE THE COMPLETION, TERMINATION OR EXPIRATION OF THIS CONTRACT.

§ 12.3 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under Paragraph 12.1, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect.

§ 12.4 It is understood and agreed that Article 12 above is subject to, and expressly limited by, the terms and conditions of Texas Civ. Prac. & Rem. Code Ann. Sec. 130.001 to 130.005, as amended.

§ 12.5 RECORDS RETENTION. Architect shall keep all accounting and construction records on the Project for a period of at least ten years after Final Completion of the Project, and thereafter shall offer the records to the Owner in writing, in order for Owner to comply with its records retention requirements, per the Texas Government Code section 441.158 et seq. and the Texas Library and Archives Commission's Local Schedule GR (Government Records). In the alternative, Architect may provide such records to Owner for retention at any time if Owner agrees in writing to accept such records in lieu of Architect's retention under this Section.

§ 12.6 COMPLAINTS. The Texas Board of Architectural Examiner has jurisdiction over complaints regarding the professional practices of persons registered as architects in Texas under the Architects Registration Law. Texas Occupations Code Chapter 1051. The Texas Board of Architectural Examiners can be reached at P. O. Box 12337, Austin, Texas 78711-2337 or 505 E Huntland Dr., Austin, Texas 78752, by phone at (512) 305-9000, by fax at (512) 305-8900, or on the web at <http://tbae.state.tx.us>.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral unless specifically provided for otherwise in this Agreement, as amended. This Agreement may be amended only by written instrument approved by the Owner's Board of Trustees and signed by both the Owner's designated representative and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect, as amended for this Project;
- .2 AIA Document

(Paragraphs deleted)

A201 2017 General Conditions of Contract for Construction, as amended for this project

- .3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

- .4 Other documents:

Init.

(List other documents, if any, forming part of the Agreement.)

Schedule A – Description of Services referenced in Article 4.1.1.
Schedule B – Architect’s Hourly Rates referenced in Article 11.7

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

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT

PARKHILL

OWNER *(Signature)*

ARCHITECT *(Signature)*

Dr. Scott Muri | Superintendent
(Printed name and title)

David Finley, EdD, AIA, ALEP | Principal
(Printed name, title, and license number, if required)



SCHEDULE A

The following descriptions provide the scope and extent that Basic Services will be provided under 4.1.1.

§ 4.1.1.1 Programming

§ 4.1.1.2 Multiple preliminary designs

§ 4.1.1.3 Measured drawings

§ 4.1.1.4 Existing facilities surveys

§ 4.1.1.5 Site evaluation and planning

As part of Basic Services, Architect will evaluate and plan the Owner's proposed site with regard to size, access and circulation for vehicular traffic and franchise utilities.

§ 4.1.1.8 Civil Engineering

As part of Basic Service, Architect to provide on-site development services including parking lots, sidewalks, drainage and vehicle circulation. Additional Services plus reimbursable expenses shall include extension of off-site utilities and/or roads, if any.

§ 4.1.1.9 Landscape Design

Architect to provide planting and irrigation design services as Basic Service.

§ 4.1.1.10 Architectural Interior Design

The Architect will include in its Basic Services, the preparation of two (2) color schemes for the Owner's selection. The schemes will identify basic floor, wall and ceiling colors, finishes and textures; it will not be a detailed selection of all materials. After a selection of the schematic scheme by the Owner, Architect will proceed to develop one in-depth color, finish and texture submittal for the Owner's approval. A maximum of two (2) meetings for development of the final scheme is included in this Agreement. Additional meetings, if required, will be Additional Services and compensated in accordance with Section 11.3. After approval of the color scheme, a digital presentation board will be prepared in PDF format for use by the Owner. As an optional Additional Service plus reimbursable expenses, a product sample presentation board of the approved color scheme can be prepared for use by the Owner.

§ 4.1.1.11 Value Analysis

Architect to provide services indicated in section 3.2.5.1 as pr of Basic Services. Efforts beyond these sections are Additional Services plus reimbursable expenses.

§ 4.1.1.12 Detailed Cost Estimating beyond that requested in Section 6.3

Additional independent, third party professional as Supplemental Service, plus reimbursable expenses.

§ 4.1.1.13 On-site Project Representation

As part of Basic Services, Architect to provide services indicated in Sections 3.6.2.1. Site visits beyond those indicated in section 3.6.2.1 and/or full-time on-site project representation shall be an Additional Service plus reimbursable expenses.

§ 4.1.1.20 Coordination of Owner's Consultants

As part of Basic Services, Architect shall coordinate with Owner's Consultants as indicated in Section 3.1.2.

§ 4.1.1.21 Telecommunications/data design

As part of Basic Services, Architect to coordinate the Owner's provided requirements into the Work. Should Owner require more experience than that possessed by the Architect, then a Telecommunications/Data consultant will be hired as an Additional Service plus reimbursable expenses.

§ 4.1.1.22 Security Evaluation and Planning

As part of Basic Services, Architect to provide input based on experience and coordinate with Owner's needs and requirements to incorporate into the Work. Should Owner require more experience that that possessed by the Architect, then a security consultant will be hired as an Additional Service plus reimbursable expenses.

Parkhill
Hourly Rate Schedule
 January 1, 2024 through December 31, 2024
SCHEDULE B

Client: Ector County Independent School District

Project: ECISD Agriculture Farm Facility

Agreement Date: June 18, 2024

Location: 7651 West Dunn Street, Odessa, Texas 79763

CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE
SUPPORT STAFF I	\$75.00	PROFESSIONAL LEVEL III		PROFESSIONAL LEVEL VI	
SUPPORT STAFF II	\$88.00	Architect	\$186.00	Architect	\$281.00
SUPPORT STAFF III	\$120.00	Civil Engineer	\$227.00	Civil Engineer	\$337.00
SUPPORT STAFF IV	\$129.00	Electrical Engineer	\$222.00	Electrical Engineer	\$292.00
SUPPORT STAFF V	\$143.00	Interior Designer	\$166.00	Interior Designer	\$251.00
SUPPORT STAFF VI	\$154.00	Landscape Architect	\$179.00	Landscape Architect	\$257.00
PROFESSIONAL LEVEL I		Mechanical Engineer	\$211.00	Mechanical Engineer	\$304.00
Architect	\$151.00	Structural Engineer	\$219.00	Structural Engineer	\$300.00
Civil Engineer	\$165.00	Survey Tech	\$170.00	Professional Land Surveyor	\$239.00
Electrical Engineer	\$168.00	Other Professional	\$163.00	Other Professional	\$236.00
Interior Designer	\$144.00	PROFESSIONAL LEVEL IV		PROFESSIONAL LEVEL VII	
Landscape Architect	\$144.00	Architect	\$226.00	Architect	\$356.00
Mechanical Engineer	\$158.00	Civil Engineer	\$265.00	Civil Engineer	\$366.00
Structural Engineer	\$158.00	Electrical Engineer	\$260.00	Electrical Engineer	\$395.00
Survey Tech	\$134.00	Interior Designer	\$181.00	Interior Designer	\$271.00
Other Professional	\$141.00	Landscape Architect	\$194.00	Landscape Architect	\$284.00
PROFESSIONAL LEVEL II		Mechanical Engineer	\$248.00	Mechanical Engineer	\$390.00
Architect	\$163.00	Structural Engineer	\$253.00	Structural Engineer	\$293.00
Civil Engineer	\$184.00	Survey Tech	\$207.00	Professional Land Surveyor	\$319.00
Electrical Engineer	\$190.00	Other Professional	\$193.00	Other Professional	\$293.00
Interior Designer	\$151.00	PROFESSIONAL LEVEL V			
Landscape Architect	\$151.00	Architect	\$275.00		
Mechanical Engineer	\$181.00	Civil Engineer	\$319.00		
Structural Engineer	\$179.00	Electrical Engineer	\$317.00		
Survey Tech	\$146.00	Interior Designer	\$218.00		
Other Professional	\$148.00	Landscape Architect	\$236.00		
		Mechanical Engineer	\$302.00		
		Structural Engineer	\$305.00		
		Professional Land Surveyor	\$240.00		
		Other Professional	\$215.00		



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Anthony Sorola, Associate Superintendent of Athletics, Human Capital, and Operations

SUBJECT: **DISCUSSION OF AND REQUEST FOR APPROVAL OF CONSTRUCTION MANAGER AT RISK CONTRACT AND GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION BETWEEN ECISD AND TEINERT CONSTRUCTION FOR A MIDDLE SCHOOL**

DATE: June 18, 2024

It is the recommendation of the administration that the Board of Trustees approve the Construction Manager at Risk Contract and General Conditions of the Contract for Construction between ECISD and Teinert Construction for a Middle School

Administrative Recommendation:

Approval of the Construction Manager at Risk Contract and General Conditions of the Contract for Construction between ECISD and Teinert Construction for a Middle School

AIA[®] Document A133[®] – 2019

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

AGREEMENT made as of the 18 day of June in the year 2024
(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, TX 79761

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

Allen Teinert Construction Co., Inc. dba Teinert Construction
1402 Crickets Ave.
Lubbock, TX 79401

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

2023 Bond Program New Construction :
New middle School

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

PBK Architects, Inc.
6300 Bridge Point Pkwy Building 2, Suite 115
Austin, TX 78730

WHEREAS Ector County Independent School District (hereinafter referred to as "Owner") and Teinert Construction (hereinafter referred to as "Construction Manager") desire to enter into a contract under which Construction Manager will perform construction services relating the above-referenced Projects on behalf of Owner;

WHEREAS Owner and Construction Manager have agreed to enter into AIA Document A133TM-2019 Contract ("Contract") as the basic form for that contract; and

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

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

AIA Document A201TM-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

WHEREAS certain terms and conditions of the contract must be modified to comply with applicable laws and policies affecting Owner and Construction Manager on this project, Owner and Construction hereby agree to the following amendments to the Contract:TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 GENERAL PROVISIONS
- 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES
- 4 OWNER'S RESPONSIBILITIES
- 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
- 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
- 7 COST OF THE WORK FOR CONSTRUCTION PHASE
- 8 DISCOUNTS, REBATES, AND REFUNDS
- 9 SUBCONTRACTS AND OTHER AGREEMENTS
- 10 ACCOUNTING RECORDS
- 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES
- 12 DISPUTE RESOLUTION
- 13 TERMINATION OR SUSPENSION
- 14 MISCELLANEOUS PROVISIONS
- 15 SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT
EXHIBIT B INSURANCE AND BONDS

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Middle School

This comprehensive middle school (grades 6-8) will be constructed for a capacity of 1,000 students.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

New Middle School

Init.

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User Notes:

(1316317303)

-Situated in Ector County, Texas at Sections 34 & 35 of Block 43, Odessa, TX.
-Legally describes as 40+ Acres out of T-2-S, BLK 43, SEC 34 (Card#1) WH McCollum undivided in 640 acres.

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

New Middle School:
Ninety Million Dollars (\$90,000,000.00)

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

New Middle School: 3/18/2024 through 11/15/2024

.2 Construction commencement date:

New Middle School: 1/1/2025

.3 Substantial Completion date or dates:

New Middle School: 6/30/2026

.4 Other milestone dates:

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

To be determined at a later date.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234-2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234-2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

(Paragraphs deleted)

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User Notes:

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§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Dr. Scott R. Muri, Superintendent of Schools, or his designee
Ector County ISD
802 North Sam Houston
Odessa, TX 79761
Tel.: 432.456.9878

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

Program Manager to be determined by Owner at a later date.

§ 1.1.10 The Owner may retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

To be determined at a later date

.2 Civil Engineer:

To be provided by Architect

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

Program Manager

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Mr. Darrell Pearson, AIA
6300 Bridge Point Pkwy Building 2, Suite 115
Austin, TX 78730
512.340.0676
darrell.pearson@pbk.com

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Mr. Chad Henthorn, CEO

Init.

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User Notes:

(1316317303)

Teinert Construction
1402 Crickets Ave.
Lubbock, TX 79401
806.744.2801
chad@teinert.com

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:

(List any Owner-specific requirements to be included in the staffing plan.)

Colten Nance – Jr. Estimator; Cameron Cohen, Sr. Estimator, Daneil Horton Pre-Construction Director.

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:

(List any Owner-specific requirements for subcontractor procurement.)

To be addressed in GMP Amendment and as required in Chapter 2269, Subchapter F of the Texas Government Code.

§ 1.1.15 Other Initial Information on which this Agreement is based:

N/A

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior written notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, as amended, Conditions of the Contract (General, Supplementary and other Conditions), as amended, Drawings, Specifications, Addenda issued prior to execution of this Agreement, all sections of the Project Manual, other documents listed in this Agreement, Modifications issued after execution of this Agreement, the proposal signed by the Construction Manager, the request for proposals, and Construction Manager's proof of payment and performance bonds, and proof of insurance, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15. Any reference to AIA Document A201-2017 in this Agreement shall be construed as the AIA Document A201-2017, as amended.

§ 2.1.1 Any revision, amendment, or modification to the Standard Form of this Agreement shall be valid, binding, and enforceable only if said revision, amendment or modification is made conspicuous by being underlined, lined-through, or highlighted in this Agreement signed by Construction Manager and the authorized representative of Owner's Board of Trustees. In the event of conflict, terms and conditions contained in the Agreement, as amended, shall take precedence over terms and conditions contained in the General Conditions, as amended, and the terms and conditions in the General Conditions, as amended, shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein.

§ 2.1.2 The Board of Trustees is the only representative of the Owner, an independent school district, having the power to enter into or amend a contract, to approve changes in the scope of the Work, to approve and execute a Change Order or

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Construction Change Directive modifying the Guaranteed Maximum Price, to agree to an extension to the date of Substantial or Final Completion or to terminate a contract. The Owner designates the following as the individual authorized to sign documents on behalf of the Board of Trustees: Superintendent or his designee.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to perform the Work defined in the Contract Documents, in accordance with the Owner's requirements and construction cost limitations, as approved by the Owner's Board of Trustees, as set forth in the Contract Documents; to furnish efficient construction administration, management services, and supervision; to furnish construction services, if allowed in accordance with law; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents. The Owner and Construction Manager shall endeavor to promote harmony and cooperation among the Owner, Architect, Construction Manager, Construction Manager's subcontractors, and other persons or entities employed by the Owner for the Project.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

(Paragraph deleted)

§ 2.3.2 Per Texas Government Code, Section 2269.257, if a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected, the Construction Manager may itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

§ 2.3.3 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services including preparation of schedules and estimates. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The recommendations and advice of the Construction Manager concerning design alternative and potential cost savings shall be subject to the review and approval of the Architect, Owner, and the Owner's professional consultant. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by, or that reasonably should have been discovered by, or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other. In cooperation with the Architect's initial conceptual

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design, the Construction Manager shall prepare a detailed written report to the Owner setting out an initial cost estimate based on the Owner's Design Standards and Educational Specifications, using industry research, estimated quantities and labor costs, and shall participate in a meeting with the Owner's team and the Architect to review and discuss the conceptual design and initial cost estimate.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction, which shall satisfy Owner's time requirements; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.3.4 During the Preconstruction Phase, the Construction Manager shall review the Contract Documents to ascertain whether the components of the plumbing, electrical and mechanical systems may be constructed without interference with each other, or with the structural or architectural components of the Project, or with existing systems. In the event that conflicts between the systems are discovered, the Construction Manager shall promptly notify the Owner and Architect in writing.

§ 3.1.3.5 Notwithstanding any provision of the General Conditions of the Contract for Construction to the contrary, the Construction Manager shall not be entitled to additional compensation for any delay or disruption to the Work arising from any conflict between the mechanical, electrical, and plumbing systems with each other, or with the structural or architectural components of the Work, or with existing systems, if such conflicts should have been discovered during the Construction Documents Phase by the Construction Manager through the exercise of reasonable diligence, and the Owner and Architect were not informed of such conflicts as required by subparagraph 3.1.3.4. This provision shall apply only with respect to conflicts appearing in the Drawings and Specifications provided for the Construction Manager's review prior to proposal of a Guaranteed Maximum Price.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; dates of Substantial Completion and Final Completion; and the occupancy requirements of the Owner. If updated Project schedules indicate that previously-approved schedules may not be met, then the Construction Manager shall make appropriate recommendations to the Owner and Architect and, upon written approval of both, shall implement necessary corrective action.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues. The Construction Manager shall make recommendations to the Owner and Architect regarding the phased issuance of Drawings and Specifications so as to facilitate the proposal of a Guaranteed Maximum

Price when all elements of the Drawings and Specifications are at least ninety percent complete, unless mutually agreed otherwise by the Architect, Owner and the Construction Manager.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action, and/or cost reductions, including but not limited to, substitution of materials or revisions or alterations to the Design Development Documents or the Construction Documents, to bring the Project within the Owner's budget, but shall not delete necessary components of the Project without Owner's Board of Trustees or designee's consent. In the event that the quality or scope identified in the estimates are unacceptable or exceed the Owner's identified budget, the Construction Manager shall work with the Architect to develop options that are acceptable to Owner and are within the Owner's budget.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 For all elements of the Work, the Construction Manager must obtain the Owner's written approval of the packaging of the scope of work for trade contractors or subcontractors, prior to publicly advertising for bids or proposals from trade contractors or subcontractors.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project. To the extent not inconsistent with the Construction Manager's requirements under Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall seek to develop subcontractor interest in the Project and shall furnish to the Owner and Architect for their information a list of possible subcontractors, including suppliers who are to furnish materials or equipment fabricated to a special design, from whom proposals will be requested for each principal portion of the Work. The Architect will promptly reply in writing to the Construction Manager if the Architect or Owner know of any objection to such subcontractor or supplier. The receipt of such list shall not require the Owner or Architect to investigate the qualifications of proposed subcontractors or suppliers, nor shall it waive the right of the Owner or Architect later to object to or reject any proposed subcontractor or supplier.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

N/A

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 When all elements of the Construction Documents are at least 90 percent complete, at a time mutually-agreed upon by the Owner and the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, the general conditions; and the Construction Manager's Fee. If any Guaranteed Maximum Price proposal submitted to the Owner exceeds previously-approved estimates or the Owner's budget, then the Construction Manager shall make appropriate recommendations to the Owner and Architect for cost reductions, including but not limited to, substitution of materials or revisions or alterations to the Construction Documents, to bring the Project within the Owner's budget, but shall not delete necessary components of the Project without Owner's Board of Trustees' consent. In the event that the quality or scope identified in the proposal are unacceptable or exceed the Owner's identified budget, the Construction Manager shall work with the Architect to develop options that are acceptable to Owner, are within the Owner's budget, and meet the Owner's requirements for dates of Substantial Completion and Final Completion. The Construction Manager may propose separate Guaranteed Maximum Prices for separate Works within the Project, as schedules and efficiencies dictate. The Construction Manager will work with the Architect to achieve a Guaranteed Maximum Price that is fully acceptable to Owner and is within the Owner's budget for the Work and for the Project.

§ 3.2.2 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.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; general conditions; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based;

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- .5 The date of Final Completion upon which the proposed Guaranteed Maximum Price is based, which date shall not be more than thirty (30) days after the date of Substantial Completion; and
- .6 The Guaranteed Maximum Price proposal may not be based in any part on any subcontract or material supply contract which would require the Owner to compensate the Construction Manager on other than a maximum price basis.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. The Guaranteed Maximum Price will contain a separately-identified contingency amount (the "Construction Contingency"). The Construction Contingency is not allocated to any particular item of the Cost of the Work and is established for the Construction Manager's use as may be required for costs incurred in the Work from unforeseeable causes, or details which could not have been anticipated by the Construction Manager at the time of the Owner's approval of the Guaranteed Maximum Price. Such unforeseeable causes or unanticipated details include, but are not limited to, refinement of details of design within the scope of standards, quality and quantities which are reasonably inferable from the Guaranteed Maximum Price documents, the correction of minor defects not relating to design, delays in receipt of materials, and additional costs relating to Subcontractor defaults not reimbursed by the Subcontractor's bonding company. The Construction Manager, with Owner's representative's written approval, may utilize the Construction Contingency for any of the above items within the Cost of the Work without the necessity of a Change Order, without constituting a Change in the Scope of the Work, and without resulting in any change in the Guaranteed Maximum Price. Any unforeseeable causes or unanticipated details which exceed the Construction Contingency shall be borne by the Construction Manager at the Construction Manager's sole risk. All savings will accrue and be available for use, only as detailed above, by the Construction Manager until the Construction Manager's final accounting. In the final accounting, all supporting documentation for all uses of the Construction Contingency shall be provided to Owner. Upon final accounting, all remaining monies in the Construction Contingency shall accrue to the Owner. The Guaranteed Maximum Price shall also include a separately-identified contingency amount, an "Owner's Contingency," which is defined as a contingency fund within the Guaranteed Maximum Price established by the Owner for the Owner's exclusive use. Monies from Owner's Contingency may be spent in the discretion of Owner's Representative and without additional Board of Trustees approval, but with subsequent notice to Owner's Board of Trustees. Any unused Owner's contingency shall accrue to the Owner.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both. As soon as feasible after Architect's preliminary approval of the Construction Manager's proposed Guaranteed Maximum Price, the Architect will prepare the Amendment forms and return them to the Construction Manager for review, signature, and return to the Owner.

§ 3.2.6 The Owner's Board of Trustees shall be allowed not less than thirty (30) days after receipt of the Construction Manager's signed Guaranteed Maximum Price Amendment to review and take action on the Amendment. Unless the Owner's Board of Trustees accepts the Guaranteed Maximum Price Amendment by Board action within thirty (30) days after District's receipt, the Amendment will not become effective and the Construction Phase will not commence. Following the Board's acceptance of a Guaranteed Maximum Price, the Owner shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

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§ 3.2.9 The Construction Manager shall not include in the Guaranteed Maximum Price any taxes from which Owner is exempt.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 The date of commencement of the Work shall mean the date of commencement of the Construction Phase, as provided in Section 8.1.2 of A201-2017.

§ 3.3.1.2 The Construction Phase shall not commence unless and until Owner's Board of Trustees accepts, and Owner's authorized representative executes, the Guaranteed Maximum Price Amendment. The Date of Commencement shall be clarified in the GMP Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 Pursuant to Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall publicly advertise and solicit through competitive purchasing, as required by law, competitive sealed proposals from Subcontractors Pursuant to Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall publicly advertise and obtain bids or proposals from Subcontractors for the performance of all major elements of the Work. All bids or proposals shall be sent directly to Construction Manager.

The Construction Manager may seek to perform portions of the Work required to be publicly advertised. If the Construction Manager submits its own proposal for any portion of the Work, it shall do so in the same manner as required of all subcontractors. Owner shall decide whether or not Construction Manager's proposal for self-performing portions of the Work offers the best value to Owner. In opening proposals, neither Construction Manager nor Owner shall disclose the contents of a proposal during the selection process to anyone who is not an employee of the Construction Manager, architect, engineer, or Owner. All proposals shall be made public within seven days after the Owner's final selection. If Construction Manager's proposal is selected by the Owner, the proposed cost for the self-performed work shall be paid to the Construction Manager, pursuant to progress payments, as if Construction Manager were a subcontractor. Such payments to Construction Manager shall be included in the Cost of the Work, but the Construction Manager shall not receive an additional Construction Manager's fee for self-performed work. Pursuant to Texas Government Code Chapter 2269, Subchapter F, if during the course of recommending proposals, the Construction Manager recommends to Owner a proposal from a subcontractor, but the Owner requires another proposal to be accepted, the Owner shall compensate the Construction Manager by a change in price, time, and/or Guaranteed Maximum Price for any additional cost and risk that the Construction Manager may incur as a result, if such change exists. Construction Manager shall state the additional cost and/or risk in writing and shall provide written proof of same before Owner compensates Construction Manager.

§ 3.3.2.1.1 The Construction Manager shall include the following specific notices in the information to proposers:

- .1 The successful proposer's responsibility to provide workers' compensation insurance in accordance with Texas Labor Code Chapter 406;
- .2 The successful proposer's responsibility to pay prevailing wages pursuant to Texas Government Code Chapter 2258;
- .3 A notice of the sales tax exemption for the Work and the procedure for obtaining any required exemption verification or certificate;
- .4 The notice regarding trench and shoring safety required by Texas Health and Safety Code Section 756.023.

§ 3.3.2.1.2 Nothing herein shall preclude the Construction Manager from including other notices required or allowed by law.

3.3.2.1.3. The Construction Manager shall schedule and conduct weekly or otherwise regularly-scheduled meetings at which Owner, Architect, Construction Manager, and appropriate Subcontractors meetings discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect. The Construction Manager shall provide periodic

presentations updating the progress, quality and status of the Work to Owner's Board of Trustees, at Owner's request, at no additional cost to Owner.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment by Owner and Construction Manager, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201-2017, including the Owner's occupancy requirements.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress, including changes to the Work approved by Owner, and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

§ 3.3.3 To the extent that any portion of the Work requires a trench excavation exceeding five (5) feet in depth, in accordance with Texas Health and Safety Code Section 756.023(a), Construction Manager shall fully comply, and shall require any applicable subcontractor to comply, with:

- .1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work.
 - .2 The special shoring requirements, if any, of the Owner.
 - .3 Any geotechnical information obtained by Owner for use by the Construction Manager in the design of the trench safety system.
1. § 3.3.4 shall be added as follows:

§3.3.4 Trench excavation safety protection shall be a separate pay item, and shall be based on linear feet of trench excavated. Special shoring requirements shall also be a separate pay item, and shall be based on the square feet of shoring used. Said cost shall be included within the Guaranteed Maximum Price.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

[Paragraph intentionally deleted.]

(Paragraph deleted)

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs, including the Owner's Contingency as provided in Section 3.2.4. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

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§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. Such documents shall be provided for information only and are not warranted or represented to show the conditions at the Project site accurately. Construction Manager may use the information at its own risk and shall use customary precautions relating to the performance of the Work. Notwithstanding the preceding sentences and the delivery of surveys or other documents and reports by Owner, Construction Manager shall perform all work in such a non-negligent manner so as to avoid damaging any utility lines, cables, pipes, or pipelines on the Property. Contractor shall be responsible for any damage done to such lines, cables, pipes and pipelines during the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law or as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys as provided in Section 2.2.3 of AIA A201-2017.

§ 4.1.4.3 Unless provided by the Architect by agreement with the Owner, the Owner, when such services are reasonably required by the scope of the Work and are requested by the Architect or Construction Manager and approved by the Owner, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner may also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's reasonable written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

Owner's Board of Trustees shall designate one or more authorized representatives to act on its behalf in the day-to-day administration of the Project, to issue stop work orders, and to authorize expenditures within the Owner's contingency. The Board designates as its authorized representatives, the following individuals: Dr. Scott Muri, Superintendent, or his designee.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that the Owner may determine to be reasonably necessary at any time for the Project to meet the Owner's needs and interests. Construction Manager shall furnish all legal, insurance, and accounting services that Construction Manager may determine to be necessary to meet Construction Manager's needs and interests.

§ 4.3 The Construction Manager's services shall be provided in conjunction with the services of an Architect. The terms of the agreement between the Owner and Architect shall be available for inspection by the Construction Manager upon request.

§ 4.4 Inspection and Testing. Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement. Pursuant to Texas Government Code Section 2269.058, the Owner shall provide or contract for, independently of the Construction Manager, construction materials engineering, and testing and inspection services necessary for acceptance of the Work by Owner."

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

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Seventy Thousand five Hundred Eighty Eight Dollars (\$70,588.00)

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

N/A

(Table deleted)

§ 5.1.2.1 [Intentionally deleted.]

§ 5.1.3 NOT USED

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the
(Paragraphs deleted)

maximum rate permitted by law, in accordance with Texas Government Code Chapter 2251.

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 Owner shall not be obligated or have any duty to compensate Construction Manager for any Construction Phase Services unless and until the Guaranteed Maximum Price Amendment is first approved by the Owner's Board of Trustees and executed by Owner. The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee, plus the general conditions, the total of which shall not exceed the Guaranteed Maximum Price.

§ 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

Mew Middle School: One Million Seven Hundred Ten Thousand Dollars (\$1,710,000.00)

)

No Construction Manager's fee shall be paid on the Construction Manager's Contingency or the Owner's Contingency until funds are allocated from those contingencies to the Cost of the Work, or as provided in Section 2.3.2.1.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

Fee shall be adjusted at One point Nine percent (1.9%) for changes in the work or any scope increases that cause the project to go over budget listed herein.

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

A Subcontractor's overhead and profit attributable to increases in the cost of its portion of the Work, as evidenced by executed Change Order(s) identifying the same, shall not exceed the amounts in Article 7 of the A201 General Conditions, as modified by the Owner.

(Paragraph deleted)

§ 6.1.5 General Conditions. All charges, if any, for general conditions (costs to be reimbursed) shall be delineated separately in the Guaranteed Maximum Price Amendment, and may include only the following: on-site Project Manager; on-site Project and Site Superintendents; on-site Assistant Superintendents; minor work that may be included in the general conditions as allowed by Texas Government Code Section 2269.255; office trailer expenses; on-site sanitary facilities; project sign; safety/first aid; on-site technology; temporary water and power; project site office supplies and office equipment; plan reproduction; construction photographs; dumpsters; final clean-up; equipment rental; fuel; small tools; and items described in more detail below.

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§ 6.1.6 Rental rates for Construction Manager-owned equipment shall be subject to the Owner's prior approval and shall not exceed Eighty percent (80 %) of the standard rental rate paid at the place of the Project.

(Paragraphs deleted)

§ 6.1.7 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.

§ 6.1.8 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries, for Construction Manager's on-site Project Manager, on-site Project and Site Superintendents, on-site Assistant Superintendents, and Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.

§ 6.1.9 Actual rental charges for temporary facilities, machinery, equipment and hand tools not included in Section 6.5.1 and not customarily owned by construction workers that are provided by the Construction Manager at the site and costs of transportation, installation, minor repairs, dismantling and removal.

§ 6.1.10 The general conditions shall not include the following: all reimbursement for profit; indirect costs; all telephone bills for all personnel; all facsimile charges; home office personnel and benefits assigned to the Project; home office overhead and expenses; home office personnel relocation; all home office accounting, audit, legal and data processing fees and expenses; and all travel, meals and lodging.

§ 6.1.11 Liquidated Damages, if any:

.1 Time is of the essence in all phases of the Work. It is specifically understood and agreed by and between Owner and Construction Manager 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 Construction Manager's failure, neglect or refusal to achieve said deadlines. Such actual and direct 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 Construction Manager that the amounts stated below are the minimum value of the costs and actual and direct damages caused by failure of Construction Manager to substantially complete the work within the allotted times, that such sums are liquidated direct damages and shall not be construed as a penalty, and that such sums may be deducted from payments due Construction Manager 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 miscellaneous increased costs, all of which are difficult to exactly ascertain. Failure to complete the Work within the designated or agreed extended dates of Substantial or Final Completion, shall be construed as a breach of this Agreement.

.2 It is expressly agreed as a part of the consideration inducing the Owner to execute this Agreement that the Owner may deduct from the Final Payment made to the Construction Manager a sum as later to be set forth in the GMP Amendment for each and every additional calendar day beyond the agreed date of Substantial Completion.

.3 Timely Final Completion is an essential condition of this Agreement. Construction Manager agrees to achieve Final Completion of the Agreement within 30 days of the designated or extended date of Substantial Completion. Owner and Construction Manager agree that should Construction Manager fail to achieve Final Completion of the Agreement by the deadline, Owner shall continue to be damaged to a greater degree by such delay. Construction Manager 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 As later to be set forth in the

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GMP Amendment. Owner may deduct from the Final Payment made to Construction Manager, or, if sufficient funds are not available, then Construction Manager 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 Such damages shall be in addition to, and not in lieu of, any other rights, claims or remedies Owner may have against Construction Manager. 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.

§ 6.1.12 Other:

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

Cost Savings Split: Owner: 100%, CM: 0%

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents, and the Dates of Substantial Completion and Final Completion shall be subject to adjustment as provided in the Construction Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner. Should the final audited Contract Sum be less than the Guaranteed Maximum Price, then the difference between the Contract Sum and the Guaranteed Maximum Price shall be considered as savings to the Owner, and Owner shall have no obligation to pay same to the Construction Manager. Construction Manager shall also consider as savings to the Owner all unused funds from any Contingency account. The Construction Manager shall not participate in any savings; all savings shall be credited to Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner, with Board of Trustees' approval, if appropriate, may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. Either the Construction Manager or the Owner, as appropriate, may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction, as amended for this project.

§ 6.3.2 Increases or decreases, if any, to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction, as amended for this project.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee may be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean the following direct, actual and verifiable costs reasonably and necessarily incurred by the Construction Manager in the proper performance of the Work, except those costs compensated as general

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conditions under Section 6.1.5 above. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7. Cost of the Work that exceeds the Guaranteed Maximum Price shall be borne by the Construction Manager.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior written approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform any portion of the construction of the Work at the site or, with the Owner's prior written approval, at off-site workshops, to the extent allowed by Texas Government Code Sections 2269.255 or 2269.275.

§ 7.2.2 [*Intentionally deleted.*]

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and, to the extent same are not compensated under general conditions, are directly attributable to and required for the Work, and are approved by the Owner.

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

To be listed in Assumptions & Clarifications Attachment to GMP Amendment

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work and to the extent same are not compensated under general conditions, are directly attributable to and required for the Work, and are approved by the Owner.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for employment-related taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3, to the extent not compensated under general conditions.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts. Any Subcontract Work to be performed by the Construction Manager's own forces on the basis of a bid or proposal submitted by the Construction Manager per Section 3.3.2.1, as amended, shall be treated as Work performed by a Subcontractor under this Section. The Construction Manager's compensation for such Subcontract Work performed shall be based on the amount of the bid or proposal submitted by the Construction Manager for such Work, rather than "actual costs" as provided elsewhere in Article 6 of this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

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

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

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Except for items included as general conditions, costs of transportation, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 *[Intentionally deleted.]*

§ 7.5.3 To the extent not compensated under general conditions, costs of removal of debris from the site of the Work and its proper and legal disposal, other than final clean-up.

§ 7.5.4 To the extent not compensated under general conditions, costs of the Construction Manager’s site office, including general office equipment and supplies.

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

§ 7.6 Miscellaneous Costs

§ 7.6.1 To the extent not compensated under general conditions, premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

*[Intentionally deleted.] [Intentionally deleted.]
(Paragraphs deleted)*

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority for materials that are related to the Work, but not incorporated into the Work, and for which the Construction Manager is liable and Owner is not exempt. Construction Manager shall be obligated to take reasonable care to obtain all applicable tax exemptions.

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

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents and paid by the Construction Manager.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

*[Intentionally deleted.] [Intentionally deleted.] [Intentionally deleted.]
(Paragraphs deleted)*

§ 7.6.8 Deposits lost for causes directly resulting from the Owner’s wrongful actions or decisions.

*[Intentionally deleted.] [Intentionally deleted.] [Intentionally deleted.]
(Paragraphs deleted)*

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, to the extent same are not compensated under general conditions, are directly attributable to and required for the Work, and are approved by the Owner.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 *[Intentionally deleted.]*

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9, or other provision of or amendment to

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this Agreement. However, notwithstanding anything in Article 7 to the contrary, no reimbursable cost or expense will be paid again if it is also included and paid in any general conditions amount submitted by Construction Manager.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner in writing of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails or refuses to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

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

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- (Paragraph deleted)*
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
 - .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
 - .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
 - .6 Costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
 - .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
 - .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded;
 - .9 Costs for services incurred during the Preconstruction Phase;
 - .10 Delay damages or claims;
 - .11 Storage costs, unless with prior written owner approval;
 - .12 All costs intentionally excluded in Article Section 6 above, including all subsections; and
 - .13 All items included in either general conditions under Section 6.1.5 above, or the Construction Manger's Fee in Section 6.1.2. above.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Construction Manager shall take advantage of all available discounts, rebates, and refunds for supplies, materials, and equipment connected with the Work, and which conform to the Contract Documents, which discounts, rebates, and refunds shall accrue to the benefit of the Owner. Cash Discounts obtained on payments made by the Construction Manager shall accrue to the Owner. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction

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Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

§ 9.3 Pursuant to Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall publicly advertise and solicit through competitive purchasing, as required by law, competitive sealed proposals from Subcontractors Pursuant to Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall publicly advertise and obtain bids or proposals from Subcontractors for the performance of all major elements of the Work. All bids or proposals shall be sent directly to Construction Manager.

§ 9.4 The Construction Manager shall include the following specific notices in the information to proposers:

- .1 The successful proposer's responsibility to provide workers' compensation insurance in accordance with Texas Labor Code Chapter 406;
- .2 The successful proposer's responsibility to pay prevailing wages pursuant to Texas Government Code Chapter 2258;
- .3 A notice of the sales tax exemption for the Work and the procedure for obtaining any required exemption verification or certificate;
- .4 The notice regarding trench and shoring safety required by Texas Health and Safety Code Section 756.023.
- .5 The following shall be included in any information to proposers, Request for Proposals, or Bid Documents:

"By submitting a bid or proposal, each bidder or proposer agrees to waive any claims it has or may have against the Owner, the Architect, the Construction Manager, and their respective officers, trustees, employees, agents, or representatives, arising out of or in connection with the administration, evaluation, recommendation, or selection of any bid or proposal; waiver of any requirements under the bid or proposal documents or contract documents; acceptance or rejection of any bid or proposal; and award of the contract."

§ 9.5 Nothing herein shall preclude the Construction Manager from including other notices required or allowed by law.

§ 9.6 The Construction Manager may seek to perform portions of the Work required to be publicly advertised. If the Construction Manager submits its own proposal for any portion of the Work, it shall do so in the same manner as required of all subcontractors. Owner shall decide whether or not Construction Manager's proposal for self-performing portions of

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the Work offers the best value to Owner. In opening proposals, neither Construction Manager nor Owner shall disclose the contents of a proposal during the selection process to anyone who is not an employee of the Construction Manager, architect, engineer, or Owner. All proposals shall be made public within seven days after the Owner's final selection. If Construction Manager's proposal is selected by the Owner, the proposed cost for the self-performed work shall be paid to the Construction Manager, pursuant to progress payments, as if Construction Manager were a subcontractor. Such payments to Construction Manager shall be included in the Cost of the Work, but the Construction Manager shall not receive an additional Construction Manager's fee for self-performed work. Pursuant to Texas Government Code Chapter 2269, Subchapter F, if during the course of recommending proposals, the Construction Manager recommends to Owner a proposal from a subcontractor, but the Owner requires another proposal to be accepted, the Owner shall compensate the Construction Manager by a change in price, time, and/or Guaranteed Maximum Price for any additional cost and risk that the Construction Manager may incur as a result, if such change exists. Construction Manager shall state the additional cost and/or risk in writing and shall provide written proof of same before Owner compensates Construction Manager.

§ 9.7 Per Texas Government Code Section 2269.257, if a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected, the Construction Manager may itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors, and other representatives shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of ten (10) years after the date of Final Completion, or for such longer period as may be required by law.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 11.1.3

The Construction Manager shall submit monthly Applications for Payment to both the Architect and Program Manager, if applicable, on AIA Form G702 for approval. Continuation sheets shall be submitted on AIA Form G703. If the Architect and Program Manager, if applicable, approve the application, then they shall submit a Certificate for Payment to the Owner. The Architect and Program Manager, if applicable, may require any additional information deemed necessary and appropriate to substantiate the Application for Payment. The Owner shall have the right to withhold from payments due Construction Manager such sums as are necessary to protect Owner against any loss or damage which may result from negligence by Construction Manager or failure of Construction Manager to perform Construction Manager's obligations under this Contract. Materials that are verified to be on the jobsite or other approved location for use in the Project may also be incorporated into the Application for Payment. The Architect and Program Manager, if applicable, shall have seven (7) days from date of receipt from the Construction Manager of an Application for Payment to approve or reject all or any part of the Application for Payment. The Owner shall pay the undisputed amounts certified by the Architect and Program Manager, if applicable, to the Construction Manager within thirty (30) days of receipt of the Certificate for Payment from the Architect and Program Manager, unless otherwise provided in the Contract Documents. Undisputed amounts unpaid after the date on which payment is due shall bear interest pursuant to Texas Government Code Section 2251.025. § 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee. Each

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Application for Payment shall also include a list, with backup data, of how each payment shall be spent, including a list detailing which subcontractors and suppliers will be paid out of funds paid by the Owner and the amount of such payments to subcontractors and suppliers, and in the next payment cycle, proof of each payment to Construction Manager's subcontractors and suppliers after payment. The Construction Manager shall promptly pay all bills validly due and owing for labor and material performed and furnished by others in connection with the performance and construction of the Work.

(Paragraph deleted)

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values, less any unused Owner's contingency and unused Construction Manager's contingency, shall allocate the entire Guaranteed Maximum Price among: (1) the various portions or classifications of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee. The Construction Manager's fee shall be shown as a separate line item on the schedule of values.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect and Program Manager, if applicable, may require. The format and tracking method of the original schedule of values and of all updates to the schedule of values shall be subject to the approval of the Architect and Program Manager, if applicable. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment. If at any time, the amount shown on the schedule of values exceeds the Guaranteed Maximum Price allocable to that portion or classification of the Work, then the amount payable to Construction Manager by Owner shall be reduced by the amount of such excess.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion or classification of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) classification on the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

- .1 That portion or classification of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion or classification of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

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- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors, accountants, or other representatives, in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.
- .7 Subtract retainage of Five percent (5%) of the remaining amount, including the Construction Manager’s Fee, of the progress payment.
- .8 The progress payment amount determined in accordance with this Section shall be further modified under the following circumstances:
 - .1 Add, if Final Completion of the Work is thereafter materially delayed by Owner or Owner’s agents through no fault of the Construction Manager, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201- 2017, as amended.
 - .2 If Owner is entitled to deduct liquidated damages, or any other damages or amounts provided in the Contract Documents, including clean-up fees, then Owner shall be entitled to deduct such liquidated damages, amounts and fees due Construction Manager at any time.

.3 If Construction Manager fails or refuses to complete the Work, or has unsettled claims with Owner, then any final payment to Construction Manager shall be subject to deduction for such amounts as the Architect and Program Manager, if applicable, shall determine as the cost for completing incomplete Work and the value of unsettled claims.

§ 11.1.7.3 Payment for materials and/or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner to establish the Owner’s title to such materials and equipment or otherwise protect the Owner’s interest and shall include the costs of applicable insurance (naming the Owner as additional insured) and transportation to the site for those materials and equipment stored off the site. Under no circumstances will the Owner reimburse the Contractor for down payments, deposits, or other advance payments for materials or equipment. Payments shall be made on account of materials and equipment (a) incorporated in the Work, (b) suitably stored at the Project site, or (c) suitably stored at some off-site location provided the following conditions are met for off-site storage:

- .1 The location must be agreed to, in writing, by the Owner and Surety;
- .2 The location must be a bonded warehouse;
- .3 The Surety must agree, in writing, to each request for payment; and
- .4 The Contractor must bear the cost of the Owner’s and Architect’s expenses related to visiting the off-site storage area.

§ 11.1.7.4 In the event of Contract termination or default by the Contractor, the items stored off the site, upon which payment has been made, will be promptly turned over to the Owner or Owner’s designated representative at a location near the Project site as directed by the Owner or Owner’s designated representative. The full provisions of Performance and Payment Bonds on this Project cover the materials stored off the site in every respect as though they were stored on the Project site.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

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

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Retainage is managed in conformance with Texas Government Code Chapter 2252, subchapter B.

§ 11.1.8.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

N/A

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be subject to written consent of the Contractor's Surety, and as follows:

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

Retainage may be reduced at Owner's sole discretion.

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Final Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Final Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

N/A

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Construction Manager shall submit a claim in accordance with Article 15 of AIA Document A201-2017, as amended.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site. If the Contractor wishes to bill for materials or equipment which cannot be stored on site, the Contractor shall, along with the request for approval, provide evidence of purchase, evidence of delivery in good order without damage, and a certificate of insurance specifically covering the material identified by way of serial numbers, bill of lading, and copy of signature of receipt of materials and photography showing material. The Contractor shall also require, at the Owner's request, proof that the facility at which the materials or equipment is stored is bonded. Security and protection from theft and damage remains on the Contractor as the first line of accountability and financial responsibility. Delays due to issues arising from stored materials shall not be considered as reasonable justification to release the Contractor from meeting the schedule unless the Owner agrees to such delay in writing in advance of notification to the Owner of any delay. § 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors. The percentage of retainage held on Subcontracts shall be the same percentage of retainage withheld from Construction Manager. The Construction Manager shall execute subcontracts that contain the same terms and conditions as those contained in this Agreement.

(Paragraph deleted)

§ 11.1.12 In submitting Construction Manager's Applications for Payment, Construction Manager shall be responsible for all errors or omissions. Owner shall not be responsible for Construction Manager's errors or omissions.

§ 11.2 Final Payment

§ 11.2.1 Final payment shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, including the Construction Manager's responsibility to correct Work, except for the Construction Manager's responsibility to satisfy other requirements, if any, which Owner agrees in writing necessarily extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment that are certified by Construction Manager and reviewed and approved by the Owner's auditors or other representatives;
- .3 a final Certificate for Payment has been issued by the Architect and approved by Program Manager, if applicable, in accordance with Section 11.2.2.2;
- .4 Construction Manager has provided all documents required by Section 9.10.2 of AIA Document A201-2017, as amended; and

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.5 Owner's Board of Trustees has voted to accept the Work and approve Final Payment.

§ 11.2.2 Within sixty (60) days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' or other representatives' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017 as amended. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201-2017 as amended. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' or other representatives' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to proceed in accordance with Article 12 without a further decision of the Architect. Unless otherwise agreed in the Contact Documents, a demand for mediation or other dispute resolution as provided in the Contract Documents, of the disputed amount shall be made by the Construction Manager within the timeline established in Section 15.2 of A201-2017, as amended, after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this time period shall result in the substantiated amount reported by the Owner's auditors or other representatives becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the Owner's Board approval. The Construction Manager must certify completion of all Work, including all listed in Section 9.10.2 of the AIA Document A 201-2017, as amended, for the Project, cleanup, and delivery of record documents prior to or with the Application for Final Payment.

§ 11.2.3.1 The amount of the final payment shall be calculated as follows:

- .1 Begin with the actual Cost of the Work substantiated by the Construction Manager's final accounting, which includes deductions for all discounts and unused contingencies, and construction savings achieved in the Cost of the Work, if applicable.
- .2 Add the actual expended general conditions substantiated by the Construction Manager's final accounting, which includes savings to the Owner for unused general conditions.
- .3 Add the Construction Manager's Fee.
- .4 Subtract amounts, if any, for which Architect or Owner disputes, refuses or withholds payment, if any.
- .5 If Owner is entitled to deduct liquidated damages or any other damages or amounts provided in the Contract Documents, including clean-up fees, then subtract all such liquidated damages, amounts and fees.
- .6 If Construction Manager fails or refuses to complete the Work, or has unsettled claims with Owner, then subtract such amounts as the Architect shall determine as the cost for completing incomplete Work and the value of unsettled claims.
- .7 Subtract all previous payments made by the Owner.

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- .8 In no event shall the total of subsections .1, .2, and .3 above exceed the Guaranteed Maximum Price.
- .9 If the aggregate of previous payments made by the Owner exceeds the amount due the Construction Manager, the Construction Manager shall reimburse the difference to the Owner, plus interest as allowed by law.

§ 11.2.4 If, subsequent to final payment, and at the Owner’s prior written request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7 that are not excluded by Section 7.9, to correct defective or nonconforming Work that is not the fault of the Construction Manager or arising from the resolution of a dispute, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager’s Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price.

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the maximum rate permitted by law, in accordance with Texas Government Code Chapter 2251. *(Insert rate of interest agreed upon, if any.)*

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim by the Construction Manager regarding any matter between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017, as amended. However, for Claims arising from or relating to the Construction Manager’s Preconstruction Phase services, no decision or recommendation by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution.

[Paragraphs Intentionally deleted]

(Paragraphs deleted)

§ 12.1.3 When Owner has an applicable claim for construction defects, Owner shall comply with the provision of Texas Government Code Chapter 2272 related to the provision of notice of defects and the Construction Manager’s or Architect’s opportunity to cure.

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows: *(Check the appropriate box.)*

- Arbitration pursuant to Article 15 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction, with proper venue being the county where the Project is located.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work properly authorized by Owner in writing and performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017, as amended.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, as amended, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an

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- amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
 - .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall only be responsible for payment as required under Article 14 of AIA Document A201–2017, with no termination fee or penalty.

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner’s convenience.)

N?A

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017, as amended; in such case, the Guaranteed Maximum Price, if established, and Contract Time may be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Unless otherwise noted, terms in this Agreement shall have the same meaning as those in A201–2017, as amended. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. The Construction Manager shall not assign this Agreement or the Contract in whole or in part without the prior written consent of the Owner’s Board of Trustees. If Construction Manager attempts to make such an assignment without such consent, the Construction Manager shall nevertheless remain legally responsible for all obligations under the Contract. This does not prevent Construction Manager from engaging subcontractors to perform various phases of the Project in accordance with law, but Construction Manager shall be fully responsible to Owner for the work, actions and omissions of all such subcontractors.

[Paragraph intentionally deleted]

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall purchase and maintain insurance as required by Article 11, A201–2017 as amended for this Project, to protect Construction Manager and Owner against all claims, damages, lawsuits, indemnities, or other actions which may arise out of or result from the Construction Manager’s operations under this Contract, whether such operations are by Construction Manager, or by any subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable. Prior to performing the Work, the Construction Manager shall provide separate performance and payment bonds in accordance with AIA Document A201- 2017 Section 11.5.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000.00) for each occurrence and two million dollars (\$ 2,000,000.00) in the aggregate for bodily injury and property damage.

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§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned hired, or any other vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000.00) than those stated below per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

(Note: Texas statutory minimum for school districts is \$100,000.00 per person, \$300,000.00 per occurrence, and \$100,000.00 property damages.) Such minimum limits shall be stated as follows, or in a combined single limit policy in the amount of at least \$1,000,000.00

.1	Bodily Injury (per person)	\$ 100,000.00 _____
.2	Bodily Injury (per accident)	\$ 300,000.00 _____
.3	Property Damage	\$ 100,000.00 _____

§ 14.3.1.3 The Construction Manager may not achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance. In no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

(Paragraphs deleted)

§ 14.3.1.4 Umbrella Excess Liability coverages shall be in at least the following amounts:

.1	\$ 5,000,000.00	Each Occurrence
.2	\$ 5,000,000.00	Aggregate
.3	\$ 5,000,000.00	Aggregate per Project Endorsement

§ 14.3.15 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$ 1,000,000.00) each accident, one million dollars (\$ 1,000,000.00) each employee, and one million dollars (\$ 1,000,000.00) policy limit.

§ 14.3.1.5.1 Texas Workers' Compensation Insurance. A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance (TDI), or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory worker's compensation insurance coverage for the Contractor's employees providing services on a Project is required for the duration of the Project.

§ 14.3.1.5.1.2 Duration of the Project include the time from the beginning for the Work on the project until the Contractor's Work on the Project has been completed and accepted by Owner.

§ 14.3.1.5.1.3 Persons providing services on the Project ("Subcontractor" in Texas Labor Code Section 406.096) include all persons or entities performing all or part of the services the Contractor has undertaken to perform on the Project, regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operations, employees of any such entity, or employees of an entity that furnishes persons to provide services on the Project.

§ 14.3.1.5.1.4 Services include, without limitation, providing, hauling or delivering equipment or materials, or providing labor, transportation, or other services related to the Projects. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

§ 14.3.1.5.1.5 The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all employees of the Contractor providing services on the Project for the duration of the Project.

§ 14.3.1.5.1.6 The Contractor must provide a certificate of coverage to the Owner prior to being awarded the Contract.

§ 14.3.1.5.1.7 If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the Project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.

§ 14.3.1.5.1.8 The Contractor shall obtain from each person providing services on the Project, and provide to the Owner:

.1 A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have, on file, certificates of coverage showing coverage for all persons providing services on the Project; and

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.2 No later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

§ 14.3.1.5.1.9 The Contractor shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.

§ 14.3.1.5.1.10 The Contractor shall notify the Owner, in writing by certified mail or personal delivery, within ten (10) days after Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.

§ 14.3.1.5.1.11 The Contractor shall post on each Project site a notice, in the text form and manner prescribed by the TDI, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

§ 14.3.1.5.1.12 The Contractor shall contractually require each person with whom it contracts to provide services on the Project to:

- .1 Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all of its employees providing services on the Project for the duration of the Project:
- .2 Provide to the Contractor, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project for the duration of the Project;
- .3 Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
4. Obtain from each other person with who it contracts, and provide to the Contractor:
 - .1 A certificate of coverage, prior to the other person beginning work on the Project; and
 - .2 A new certificate of coverage showing extension of coverage, prior to the end of the coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.
- .5 Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;
- .6 Notify the Owner in writing by certified mail or personal deliver, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and
- .7 Contractually require each person with whom in contracts to perform as required by items 1-6, with the certificates of coverage to be provided to the person for whom they are providing services.

§ 14.3.1.5.1.13 By signing the Contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the Owner that all employees of the Contractor who will provide services on the Project will be covered by worker's compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier, or, in the case of a self-insured, with the TDI's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

§ 14.3.1.5.1.14 The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the Owner to declare the Contract void if the Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the Owner.

§ 14.3.1.5.1.15 The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued or delivery, or renewed on or after January 1, 1996.

28 TAC Section 110.110(i)

(Table deleted)

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and or, if no Exhibit B is included, as specified in Article 11 of AIA Document A201-2017, as amended by Owner.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents.

§ 14.4

(Paragraphs deleted)

NOT USED § 14.5 Other provisions: § 14.5.1 Criminal History Checks. So that Owner can obtain the national criminal history record information required by Texas Education Code Chapter 22.08341 on all "covered employees," (as defined in Section 3.4.6.3.) of Contractor, its subcontractors, or any subcontracting entities who will perform the Work, Contractor shall submit to Owner the name and all necessary identifying information necessary to enable Owner to obtain the national criminal history information on those covered employees before they begin the Work. Contractor's submission will include the employee's written authorization for Owner to obtain such criminal history information. Owner may, in its sole discretion, prohibit the use of any employee to perform the Work after its review of the criminal history information, but cannot disclose the criminal history information to Contractor. Contractor shall reimburse Owner for Owner's costs incurred in obtaining the criminal history information.

§ 14.5.2 Contractor will not assign any "covered employee" with a "disqualifying criminal history," as those terms are defined below, to work on the Project. If Contractor receives information that a covered employee has a reported disqualifying criminal history, then Contractor will immediately remove the covered employee from the Project and notify the Owner in writing within three (3) business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Contractor agrees to discontinue using that covered employee to provide services on Owner's Project. If Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees, Contractor will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 14.5.3 For the purposes of this Section, "covered employees" means employees, agents, or applicants of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means: any conviction or other criminal history information designed by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification under Texas Education Code Section 21.060, and 19 Texas Administrative Code Section 249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school; a felony offense under Texas

Penal Code Title 5 Offense Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or an equivalent offense under federal law or the laws of another state.

§ 14.5.4 On request of Owner, Contractor shall provide all necessary identifying information to allow Owner to obtain criminal history record information for covered employees of the Contractor and all subcontractors. Contractor shall update this list on Owner's request.

§ 14.5.5 Owner's Additional Requirements Related to Criminal Histories. In addition, as provided in Section 3.4.6.1 above, Owner or Contractor will at least annually obtain criminal history record information that relates to any employee, agent, or applicant of the Contractor, if the person has or will have duties related to the Project, and the duties are or will be performed on Owner's Project, or at another location where students are likely to be present. Contractor shall assume all expenses associated with the background checks and shall immediately remove any employee, agent, or subcontractor who was convicted of a felony or a misdemeanor involving moral turpitude from Owner's property, or other location where students are likely to be present. Owner shall determine what constitutes "moral turpitude" or a "location where students are likely to be present."

§ 14.5.6 By executing this Agreement, Contractor verifies that it does not boycott Israel, and it will not boycott Israel during the terms of this Contract. Pursuant to Texas Government Code, Chapter 2271, as amended, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Contractor represents and warrants to the Owner that the Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.

§ 14.5.7 Contractor verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Contractor has misrepresented its inclusion on the Comptroller's list, such omission or misrepresentation will void this Contract.

§ 14.6

- .1 By entering into this Contract, pursuant to Texas Government Code 552, Subchapter J, the Contractor agrees to be bound by the following terms if the Contract has a stated expenditure of at least \$1,000,000 for the purchase of goods or services by the District or if the Contract results in the expenditure of at least \$1,000,000 in public funds for the purchase of goods or services by the District in a fiscal year of the District. If the District receives a written request for public information related to this Contract that is in the possession or custody of the Contractor and not in the possession or custody of the District, the District shall send, not later than the third business day after the date the District receives the written request, a written request to the Contractor that Contractor provide that information to the District.
- .2 The Contractor must:
 - .1 Preserve all contracting information related to the Contract as provided by the records retention requirements applicable to the District for the duration of the Contract;
 - .2 Promptly, within four business days, provide to the District any requested contracting information that is in the custody or possession of the Contractor upon request of the District; and,
 - .3 On completion of the Contract, either:
 - .1 Provide to the District at no cost all contracting information related to the Contract that is in the custody or possession of the Contractor; or
 - .2 Preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the District.

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- .3 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract and the Contractor agrees that the contract can be terminated if the Contractor knowingly or intentionally fails to comply with the requirements of that subchapter.
- .4 Further, under Texas Government Code Chapter 552.372(c), the District may not accept a bid for or awarding of a contract to an entity that the District has determined has knowingly or intentionally failed in a previous bid or contract to comply with Subchapter J, unless the District determines and documents that the entity has taken adequate steps to ensure future compliance.
- .5 If a Contractor fails to provide to the District the requested information, Texas Government Code Chapter 552.373 requires the District to notify the Contractor in writing of the failure and allow 10 business days to cure the violation. District may terminate the Contract if Contractor fails to remedy the failure, District determines the failure was knowing and intentional, and steps have not been taken to ensure future compliance."
- .6 If Contractor is not a sole proprietorship, has ten (10) or more employees, and the value of Contractor's bid or proposal has a value of \$100,000 or more, Contractor certifies by submitting Contractor's bid or proposal that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined by Texas Government Code Ann. Chapter 2274, and will not during the term of any contract with the Owner, unless excepted from that law.
7. As required by Texas Government Code Ann. Chapter 2274, if Contractor has ten (10) or more employees, is not a sole proprietorship, and if the value of Contractor's bid or proposal has a value of \$100,000 or more, Contractor certifies by submitting Contractor's bid or proposal that it does not boycott energy companies and will not during the term of any contract with the Owner, unless excepted by that law.

§ 14.7 The Contractor verifies by its signature below that it is not an abortion provider or an affiliate of abortion providers.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Contract represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both Owner and Construction Manager. If any portion of this Contract is determined to be invalid, unenforceable, or void, then that portion shall be severed, and all other portions of this Contract shall remain in full force and effect.

§ 15.2 The following documents are included in the Contract, in addition to those listed in Section 1.1.:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, once, and if, executed
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction

(Paragraphs deleted)

as amended by Owner.

.5

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

OWNER *(Signature)*

Dr. Scott Muri Superintendent
(Printed name and title)

CONSTRUCTION MANAGER *(Signature)*

Chad Henthorn Chief Executive Officer
(Printed name and title)

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 **AIA** Document A201[®] – 2017**General Conditions of the Contract for Construction****for the following PROJECT:***(Name and location or address)*

2023 Bond Program New Construction
New Middle School

THE OWNER:*(Name, legal status and address)*

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

THE ARCHITECT:*(Name, legal status and address)*

PBK Architects, Inc.
6300 Bridge Point Pkwy Building 2, Suite 115
Austin, TX 78730

THE CONTRACTOR:

Allen Teinert Construction Co., Inc. dba Teinert Construction
1402 Crickets Ave.
Lubbock, TX 79401

WHEREAS Ector County Independent School District (hereinafter referred to as "Owner") and Teinert Construction (hereinafter referred to as "Contractor") desire to enter into a contract under which Construction Manager will perform construction services relating the above-referenced Projects on behalf of Owner;

WHEREAS Owner and Contractor have agreed to enter into AIA Document A201-2017 Agreement ("Contract") as the basic form for that contract; and

WHEREAS certain terms and conditions of the contract must be modified to comply with applicable laws and policies affecting Owner and Contractor on this project, Owner and Contractor hereby agree to the following amendments to the Contract:

ADDITIONS AND DELETIONS:

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

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503[™], Guide for Supplementary Conditions.

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8.3, 15.1.6.2

Work, Definition of
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Written Consent
1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.10.3, 13.2, 13.3.2, 15.4.4.2

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1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), all sections of the Project Manual and Construction Documents (as defined in §1.1.3 below) including Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Any reference to Contract Documents herein shall include the Construction Documents, and any other documents included in the Contract Documents, as amended and/or supplemented for this Project.

§ 1.1.1.1 The Agreement, represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. Any revision, amendment, or modification to the Standard Form of the Agreement shall be valid, binding, and enforceable only if said revision, amendment or modification is made conspicuous by being underlined, lined-through, or highlighted in this Agreement signed by Contractor and the authorized representative of Owner's Board of Trustees. In the event of conflict, terms and conditions contained in the Agreement, shall take precedence over terms and conditions contained in the General Conditions, and the terms and conditions in the General Conditions, shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification signed by Contractor, approved by Owner's Board of Trustees, and signed by the representative of the Owner's Board of Trustees who is authorized to sign contracts. As a material consideration for the making of the Contract, modifications to the Contract shall not be construed against the maker of said modifications. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor.

§ 1.1.2.1 To be effective, all Contract Documents requiring signatures must be signed first by the Contractor and then by the Owner's authorized representative, after approval by Owner's Board of Trustees. If an approved Contract Document requiring Contractor's signature has not been signed, then the missing signature shall be provided within a reasonable period of time. Failure of Contractor to sign an approved Contract Document after notice and a reasonable opportunity to sign shall be considered a material breach of the Contract by Contractor.

(Paragraphs deleted)

§ 1.1.3 The Work; Construction Documents

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project. The Work includes all of Contractor's responsibilities as to all labor, parts, supplies, skill, supervision, transportation services, storage requirements, and other facilities and things necessary, proper or incidental to the carrying out and completion of the terms of the Contract Documents and the Construction Documents and all other items of cost or value needed to produce, construct and fully complete the public Work identified by the Contract Documents and the Construction Documents. "Construction Documents" means: all Drawings, Specifications, geotechnical reports, Addenda, submittals, transmittals, deliverables, instructions to Contractors, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants and which set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project. The Construction Documents shall reflect all agreements between Owner and Architect concerning Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of

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equipment and facilities. Said Construction Documents shall reflect the Owner's educational program and educational specifications, the State educational adequacy standards in 19 TAC Section 61.1040 and the standards set forth in Section 3.1.4 of AIA Document B101-2017. The Architect shall provide Construction Documents which are sufficient for Owner to complete construction of the Project, are free from material defects or omissions, and which shall comply with all applicable laws, ordinances, codes, rules, and regulations, as of the date of issuance of Construction Documents.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

(Paragraphs deleted)

§ 1.1.7 Construction Documents

Construction Documents include representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

[Intentionally deleted.]

§ 1.1.9 Addenda. Addenda are written or graphic instruments issued prior to the execution of the Contract, which modify or interpret the bidding or proposal documents, including Drawings and Specifications, by additions, deletions, clarifications, or corrections. Addenda will become part of the Contract Documents and Construction Documents when the Agreement is executed. The Contractor and subcontractors shall include all addenda items on their copies of the Drawings and Specifications.

§ 1.1.10 All references to "Contractor" shall include "Construction Manager at Risk" as appropriate.

§ 1.1.11 The Owner may retain Program Manager(s) to carry out some of the functions of the administration of the Owner's construction program. The Contractor, Architect, and Program Manager (when applicable) shall cooperate with each other in the performance of their respective functions. The management and reporting systems used by the Owner and/or Program Manager, including the assignment of the Program Manager, may be changed by Owner during the Project.

§ 1.1.12 Approved, Approved Equal, Approved Equivalents, Or Equal The terms "Approved" and "Approved Equal" relate to the substitution of materials, equipment, or procedure in writing by the Architect prior to receipt of bids.

§ 1.1.13 Abbreviations

AIA:	American Institute of Architects. (All references to AIA documents refer to AIA's trademarked documents. Each reference to a specific document shall refer to the document as amended for this Project.)
AIEE:	American Institute of Electrical Engineers
ACI:	American Concrete Institute
AHERA:	Asbestos Hazardous Emergency Response Act
AISI:	American Iron and Steel Institute
AISC:	American Institute of Steel Construction
ANSI:	American National Standards Institute
ASA:	American Standards Association

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ASTM:	American Society of Testing Materials
AWSC:	American Welding Society Code
CERCLA:	Comprehensive Environmental Response, Compensation, and Liability Act
EPA:	Environmental Protection Agency
FS:	Federal Specification
NEC:	National Electrical Code
OSHA:	Occupational Safety and Health Administration
SPR:	Simplified Practice Recommendation
TAS:	Texas Accessibility Standards
UL:	Underwriters Laboratories, Inc.

§ 1.1.14 Bids or Bidding. The terms "Bids" or "Bidding" shall include any kind of competitive purchasing under Texas Government Code Chapter 2269.

§ 1.1.15 Miscellaneous Other Words

§ 1.1.15.1 Business Day. The term "business day" is a day the Owner's Administration Building is scheduled to be open for normal business purposes, unless closed by the Owner's Superintendent of Schools for inclement weather or other reason. Days on which the Administration Building is normally closed are Thanksgiving Break, Winter Break, Spring Break, and Summer Break, as well as other federal, state or local days specified in the calendar approved by the Owner's Board of Trustees on an annual basis. A business day does not include a day on which the Owner's Administration Building is open only for the purposes of conducting candidate filing, early voting, elections, or other special events.

§ 1.1.15.2 Calendar Day. A calendar day is a day on the Gregorian Calendar. The Contract Time is established in calendar days. Extensions of time granted, if any, will be converted to calendar days.

§ 1.1.15.3 Holidays. Owner-approved holidays for Contractor's Work are limited to New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

§ 1.1.15.4 Work Day. Work days are all calendar days except Holidays.

§ 1.1.15.5 Anticipated Weather Days. An allowance of regular Work Days, established as anticipated Work Days lost due to weather delays; said allowance shall be included in Contractor's proposed completion time. Only lost weather days in excess of Anticipated Weather Days shall be considered by Owner for time extensions based upon weather. Section 15.1.5.3 lists required Anticipated Weather Days.

§ 1.1.16 Contract Sum. "Contract Sum" shall have the same meaning as in Section 5.1 of the Agreement (A133-2009), for the Project when the Project is a Construction Manager at Risk Project, and the same meaning as in Article 4 of the Agreement (A101-2017) for the Project.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.1.2 During the course of the Work, should any conflict be found in or between the Contract Documents, the Contractor shall be deemed to have estimated the Work on the basis of the greater quantity or better quality, or the most stringent requirement, unless it shall have obtained an interpretation in writing from the Architect as to what shall govern before the submission of its Proposal. The Architect, in case of such conflict, may interpret or construe the

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documents so as to obtain the most substantial and complete performance of the Work consistent with the Contract Documents and reasonably inferable therefrom, in the best interest of Owner, and the Architect's interpretation shall be final. The terms and conditions of this clause shall not relieve any party of any other obligation under the Contract Documents.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.4 Relation Of Specifications And Drawings. General Requirements in the Specifications govern the execution of all Specifications. Summary paragraphs present a brief indication of the Work, but do not limit the Work as later detailed. The Drawings and Specifications are correlative and have equal authority and priority. Should the Drawings and Specifications have internal inconsistencies, then the Contractor shall base the bids and construction on the more expensive combination of quality and quantity of work indicated. For purposes of construction, the Architect shall determine the appropriate Work, after the Contractor brings the inconsistency to the Architect's attention. Failure to report an inconsistency shall be evidence that Contractor has elected to proceed in the more expensive manner.

§ 1.2.5 Materials, Equipment And Processes. Exact location and arrangement of the various pieces of equipment specified shall be determined with the approval of the Architect after equipment has been selected and/or as the Work progresses. All equipment shall, insofar as possible, be installed in such a manner as will not interfere with architectural or structural portions of the building. Should changes become necessary because of a failure of the Contractor to comply with the Contract Documents which results in equipment requiring more area than shown on the Contract Documents, the Contractor shall be fully responsible for completing any required modifications or eliminating any interferences. Where in the Drawings and Specifications, certain products, manufacturer's trade names, or catalog numbers are specified, it is done for the express purpose of establishing a standard of function, dimension, appearance, and quality of design in harmony with the Work, and is not intended for the purpose of limiting competition. Materials or equipment shall not be substituted unless the Architect has specifically accepted such substitution for use on this Project. When more than one material, process, or brand is specified for a particular item of Work, the choice shall be the Contractor's. The final selection of color and pattern will be made by the Owner from the range available within the option selected by the Contractor, unless the item is specified to match a specific color or sample furnished. Where particular items are specified, products of those named manufacturers are required unless Contractor submits for consideration proposed substitutions of materials, equipment or processes from those set out in the Contract Documents. Submittals of proposed substitutions should contain sufficient information to allow the Architect and Owner to determine if the proposed substitution is in fact equal to or better than the requirements in the Contract Documents. The Architect shall review and respond to proposed substitutions within fifteen (15) days of receipt. Contractor shall bear all risk caused by submitting substitutions, including all costs. The Owner may approve substitutions only when the substitution is clearly provided by the Contract to be equal in performance characteristics to the requirements of the Contract Documents, equally compatible with the existing installations and complementary to the architectural design for the Work. Certain specified construction and equipment details may not be regularly included as part of the named manufacturer's standard catalog equipment, but shall be obtained by the Contractor from the manufacturer as required for the proper evaluation and/or functioning of the equipment. Reasonable minor variations in equipment are expected and will be acceptable, if approved by the Architect and Owner, however, indicated and specified performance and material requirements are the minimum. The Owner and the Architect reserve the right to determine the equality of equipment and materials that deviate from any of the indicated and specified requirements.

§ 1.2.6 Standards And Requirements. When the Contract Documents refer to standards, building codes, manufacturers' instructions, or other documents, unless otherwise specified, then the current edition as of the date of execution of the Agreement by the last party to execute said Agreement shall apply. It shall be the responsibility of the Architect to address revisions or amendments to applicable codes or standards which arise after the date of execution of the Agreement and until Final Completion, pursuant to the terms of the Agreement between Owner and Architect. Requirements of public authorities apply as minimum requirements only and do not supersede more stringent specified requirements.

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§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity, the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Construction Documents

§ 1.5.1 All ownership rights, whether common law, statutory, or other reserved rights, including copyright ownership of the Construction Documents, are controlled by the Agreement between the Owner and the Architect. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Construction Documents. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of any reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are granted a limited license to use and reproduce the Construction Documents provided to them, subject to any protocols established pursuant to Section 1.7, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Construction Documents. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants. All copies of the Construction Documents, except the Contractor's record set, shall be returned or suitably accounted for to the copyright holder upon completion of the Work.

§ 1.6 Notice

§ 1.6.1 Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice, or if sent by electronic facsimile transmission, to the last business number known to the party giving notice, with electronic confirmation of receipt; or, if sent by electronic mail, to the email address of the Owner's or Contractor's designated representative, with electronic confirmation of receipt.

[Intentionally deleted.]

(Paragraph deleted)

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

[Intentionally deleted.]

(Paragraphs deleted)

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the independent school district identified in the Contract Documents. The Board of Trustees, by majority vote, is the only representative of the Owner, an independent school district, having the power to: enter into a contract; amend a contract, including but not limited to AIA Document A-133 Exhibit A; approve changes in the scope of Work; approve and execute a Change Order or Construction Change Directive modifying the Contract Sum or Guaranteed Maximum Price; agree to an extension to the date of Substantial or Final Completion; or terminate a contract. The Board will act as soon as reasonably possible to avoid undue delays. The Board designates authorized representatives to act on its behalf for day-to-day operations under the Contract. Unless otherwise designated in the Contract Documents, Owner's authorized representative shall be the Superintendent of Schools, who may delegate responsibilities as appropriate. Owner's Board of Trustees hereby delegates to the Superintendent of Schools or designee the authority to approve changes to the Work where such changes are within the Owner's contingency or the

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Contractor's contingency. Any such change shall be confirmed in writing between the Contractor and Owner's Superintendent or designee, and notice of such approved changes shall be given to the Board at its next regular meeting. Except as otherwise provided in the Contract Documents, the Architect does not have such authority. Neither Architect nor Contractor may rely upon the direction of any employee of Owner who has not been designated in writing by the Superintendent or Board of Trustees; Owner shall not be financially responsible for actions taken by the Architect or Contractor in reliance upon direction from unauthorized persons.

§ 2.1.2 It shall be distinctly understood that by virtue of this Contract, no mechanic, contractor, material person, artisan, or laborer, skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the buildings or any of the improvements of whatsoever nature or kind so erected or to be erected by virtue of this Contract or upon any of the land on which said buildings or any of the improvements are so erected, built, or situated, such property belonging to a political subdivision of the State of Texas. It shall be further understood that this Contract is not written for the benefit of third parties.

§ 2.1.3 The Owner shall require the Contractor and the Architect to meet periodically at mutually-agreed-upon intervals, for the purpose of establishing procedures to facilitate cooperation, communication, and timely responses among the participants. By participating in this arrangement, the parties do not intend to create additional contractual obligations or modify the legal relationships which may otherwise exist.

§ 2.1.4 The Owner may require that the Contractor use and/or respond to certain Owner-furnished forms or inquiries during the course of the Project. From time to time, there may be future revisions, changes, additions or deletions to these forms. The fact that the Owner modifies and increases reasonable reporting requirements shall not serve as the basis for a claim for additional time or compensation by the Contractor.

§ 2.1.5 The Contractor stipulates and agrees that the Owner has no duty to discover any design errors or omissions in the Drawings, Plans, Specifications and other Construction Documents, and has no duty to notify Contractor of same. By entering into the Contract Documents or any Agreement with any Architect, Owner does not warrant the adequacy and accuracy of any Drawings, Plans, Specifications or other Construction Documents.

§ 2.2 Owner's Financial Arrangements

§ 2.2.1 The Owner, being a public body under the laws of the State of Texas, must have adequate funds and/or financing as provided by law prior to award and execution of the Contract Documents.

§ 2.2.2 *[Intentionally deleted.]*

§ 2.2.3 *[Intentionally deleted.]*

§ 2.2.4 *[Intentionally deleted.]*

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor whose status under the Contract Documents shall be that of the Architect. Owner shall notify Contractor if a successor architect has been employed by Owner.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. Other than the metes and bounds noted in the survey, if any, Owner does not guarantee or warrant the accuracy of surveys provided, including the locations of utility lines, cables, pipes or pipelines, or the presence or absence of easements.

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§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness after receiving the Contractor's written request for such information or services. Absent such timely notification, any Claim based upon lack of such information or services shall be waived.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor at least one copy of the Construction Documents, as provided for in the Project Manual, for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct defective Work, fails to correct Work that is not in accordance with the requirements of the Contract Documents or the Construction Documents as required by Section 12.2, or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3. The authorized Owner's representative having the legal right to stop the Work shall be limited to the Owner's Superintendent of Schools.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. The Architect shall, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's and other consultants' additional services, if any, made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, then the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, then the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative, and includes the Construction Manager at Risk, if applicable.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, activities of the Owner (or Owner's Program Manager, if applicable), or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.1.4 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

- .1 that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;
- .2 that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

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- .3 that it is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental, public, and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and
- .4 that the execution of the Contract and its performance thereof are within its duly-authorized powers.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents. The Contractor represents and warrants by submission of a Proposal that it has carefully examined the Contract Documents, any soil test reports, drainage studies, geotechnical or other reports, and the site of the Work, and that, from its own investigations, it has satisfied itself as to the nature and location of the Work, the character, quality and quantity of surface and subsurface materials likely to be encountered, the character of equipment and other facilities needed for the performance of the Work, the general and local conditions and all other materials which may in any way affect the Work or its performance. Should the Contractor find discrepancies, omissions or conflicts within the Contract Documents, or be in doubt as to their meaning, the Contractor shall at once notify in writing the Architect and Owner, and Architect will issue a written addendum to all parties that is consistent with the Owner's Scope of the Work. The Contractor shall not be entitled to any additional time or compensation for Contractor's failure to visit the site, or for any additional Work caused by the Contractor's fault, by improper construction, or by Contractor's failure to visit the site or to carefully study and compare the Contract Documents prior to execution of the Work.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. Contractor shall not perform any Work involving an error, inconsistency, or omission without further instructions to Contractor or revised Construction Documents from the Architect.

§ 3.2.3 Neither the Owner nor the Contractor is required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor has knowledge that any of the products or systems specified will perform in a manner that will limit the Contractor's ability to satisfactorily perform the Work or to honor its warranty, or will result in a limitation of or interference with the Owner's intended use, then the Contractor shall promptly notify the Architect and Owner in writing, providing substantiation for its position. Any necessary changes, including substitution of materials, shall be accomplished by appropriate Modification. If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. Contractor shall take field measurements, verify field conditions, and shall carefully compare them to the Construction Documents. The Contractor shall be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities when the Contractor recognized or should have recognized such error, inconsistency, omission or difference and failed to report it to the Architect. Contractor shall not be entitled to additional compensation for additional Work caused by Contractor's failure to carefully study and compare the Construction Documents prior to the execution of the Work.

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§ 3.2.5 Prior to performing any Work, and only if applicable, Contractor shall locate all utility lines as shown and located on the plans and specifications, including telephone company lines and cables, sewer lines, water pipes, gas lines, electrical lines, including, but not limited to, all buried pipelines and buried telephone cables, and shall perform any Work in such a manner so as to avoid damaging any such lines, cables, pipes, and pipelines. In addition, Contractor shall independently determine the location of same. Contractor shall be responsible for any damage done to such utility lines, cables, pipes and pipelines during its Work, and shall be responsible for any loss, damage, or extra expense resulting from such damage. Repairs shall be made immediately to restore all service. Any delay for such break shall be attributable to Contractor. In addition, and only if applicable, Contractor shall review the appropriate AHERA and hazardous materials surveys for the particular campuses involved in the Project, and shall notify all Subcontractors and Sub-subcontractors of the necessity to review said surveys. Contractor shall perform any Work in such a manner as to avoid damaging, exposing, or dislodging any asbestos-containing materials that are clearly identified and located in AHERA and other hazardous material surveys. Before performing any portion of the Work, the Contractor shall fully investigate all physical aspects of the Project Site and verify all dimensions, measurements, property lines, grades and elevations, existing improvements, and general suitability of existing conditions at the Project site. If applicable, Contractor shall comply with U.S. Environmental Protection Agency rules concerning renovating, repairing, or painting work in schools built prior to 1978 involving lead-based paint.

§ 3.2.6 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for information, where such information was available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation. If, in the reasonable opinion of the Architect, the Contractor does not make reasonable effort to comply with any of the above requirements of the Contract Documents and this causes the Architect or its Consultants to expend an unreasonable amount of time in the discharge of the duties imposed by the Contract Documents, then the Contractor shall bear the cost of compensation for the Architect's additional services made necessary by such failure.

§ 3.2.7 The Contractor shall arrange meetings prior to commencement of the Work of all major Subcontractors to allow the Subcontractors to demonstrate an understanding of the Construction and Contract Documents to the Architect and to allow the Subcontractors to ask for interpretations, when necessary. The Contractor and each Subcontractor shall evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed, including:

- .1 The location, condition, layout, drainage and nature of the Project site and surrounding areas;
- .2 Generally prevailing climatic conditions;
- .3 Anticipated labor supply and costs;
- .4 Availability and cost of materials, tools and equipment; and
- .5 Other similar issues.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects in writing to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or

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on behalf of, the Contractor or any of its Subcontractors. As part of that responsibility, Contractor shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Contractor's employees, subcontractors, and all other persons carrying out the Contract. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, while on Owner's property, to refrain from committing any criminal conduct, using tobacco products, possessing or drinking alcoholic beverages, possessing or using illegal drugs or any controlled substance, carrying or possessing weapons, speaking profane and/or offensive language, or engaging in any inappropriate interactions of any nature whatsoever with students and employees, including talking, touching, staring or otherwise contributing to a hostile or offensive environment for Owner's students and employees. All areas of campus, other than the defined construction area, shall be off limits to Contractor's forces, unless their work assignment specifies otherwise. Contractor shall also require adequate and appropriate dress and identification of Contractor's employees, subcontractors, and all other persons carrying out the Work. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to wear identification tags on the front of their persons during all times that they are on Owner's property. Such identification tags shall contain a current photograph and the worker's full name in a typeface large enough to be seen from a reasonable distance. The Contractor shall further ensure that no on-site fraternization shall occur between personnel under the Contractor's and Subcontractor's direct or indirect supervision and Owner's students or employees and the general public. Failure of an individual to adhere to these standards of conduct shall result in the immediate removal of the offending employee from all construction on any of Owner's property. Repeated removal of Contractor's or Contractor's subcontractor's forces, or one serious infraction, shall constitute a substantial breach of the Agreement justifying the immediate termination by Owner pursuant to Article 14. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to park their personal motor vehicles on Owner's property only in the parking places designated by the Owner's campus principal. Any vehicles not parked in the appropriate locations shall be towed at the vehicle owner's sole expense. Contractor shall follow, and shall require all employees, agents or subcontractors to follow, the tree ordinance of the municipality in which the Project is located. In addition, if not covered by the municipal tree ordinance, Contractor shall barricade and protect all trees on the Project, which shall be included in the Cost of the Work. Contractor shall institute a theft deterrence program designed to restrict construction worker access to properties of Owner that are currently in use, to maintain supervision of Contractor's and Contractor's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from Contractor's forces or Contractor's subcontractor's forces' actions, omissions, or failure to secure the Work or connecting or adjacent property of Owner.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall properly and efficiently coordinate the timing, scheduling and routing of all Work performed by all sub-contractors and sub-sub-contractors.

§ 3.3.5 To the extent that any portion of the Work requires a trench excavation exceeding five (5) feet in depth, in accordance with Texas Health and Safety Code Section 756.023(a), Contractor shall fully comply, and shall require any applicable subcontractor to comply, with:

- .1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work;
- .2 The special shoring requirements, if any, of the Owner; and
- .3 Any geotechnical information obtained by Owner for use by the Contractor in the design of the trench safety system.
- .4 Trench excavation safety protection shall be a separate pay item, and shall be based on linear feet of trench excavated. Special shoring requirements shall also be a separate pay item, and shall be based on the square feet of shoring used.

§ 3.3.6 The Contractor shall review Subcontractor safety programs, procedures, and precautions in connection with performance of the Work. However, the Contractor's duties shall not relieve any Subcontractor(s) or any other person or entity (e.g., a supplier), including any person or entity with whom the Contractor does not have a contractual

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relationship, of their responsibility or liability relative to compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances which shall include the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. The foregoing notwithstanding, the requirements of this Paragraph are not intended to impose upon the Contractor any additional obligations that the Contractor would not have under any applicable state or federal laws, including, but not limited to, any rules, regulations, or statutes pertaining to the Occupational Safety and Health Administration.

§ 3.3.7 It is understood and agreed that the relationship of Contractor to Owner shall be that of an independent contractor. Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Contractor the agent, servant or employee of the Owner; or 2) create any partnership, joint venture, or other association between Owner and Contractor. Any direction or instruction by Owner or any of its authorized representatives in respect of the Work shall relate to the results the Owner desires to obtain from the Work, and shall in no way affect Contractor's independent contractor status.

§ 3.3.8 Pursuant to Texas Labor Code Sec. 214.008, the Contractor and any subcontractor on the Project shall properly classify, as an employee or an independent contractor, in accordance with Texas Labor Code Chapter 201, any individual the Contractor or subcontractor directly retains and compensates for services performed in connection with this Agreement. Any Contractor or subcontractor who fails to properly classify such an individual may be subject to the penalties of Texas Labor Code Sec. 214.008(c).

§ 3.4 Labor and Materials

§ 3.4.1 These Contract Documents shall not be construed to deny or diminish the right of any person to work because of the person's membership or other relationship status with respect to any organization. Texas Government Code § 2269.054. Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for qualified, careful, and efficient workers and labor, eligible to work in accordance with state and federal law. Contractor shall appropriately classify all workers in accordance with the Fair Labor Standards Act, its implementing regulations, and Texas Labor Code Section 214.008. In addition, unless otherwise provided in the Contract documents, the Contractor shall provide and pay for materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Before ordering any material or doing any Work, Contractor shall verify all dimensions and check all conditions in order to assure Contractor that they are the same as those in the Drawings, Specifications, and other Construction Documents. Any inconsistency shall be brought to the attention of the Architect. In the event that discrepancies occur between ordered material and actual conditions and Architect was not notified beforehand, then costs to correct such discrepancies shall be borne by Contractor.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the prior written consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.2.1 After evaluation by the Architect, substitutions and alternates may be rejected by the Architect without explanation and will be considered only under one or more of the following conditions: (i) the proposal is required for compliance with interpretation of code requirements or insurance regulations then existing; (ii) specified products are unavailable through no fault of the Contractor; (iii) and when, in the judgment of the Architect, a substitution would be substantially in the Owner's best interests, in terms of cost, time, or other considerations.

§ 3.4.2.2 The Contractor must submit to the Architect: (i) a full explanation of the proposed substitution and submittals of all supporting data, including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation for the substitution; (ii) a written explanation of the reasons the substitution should be considered, including the benefits to the Owner and the Work in the event the substitution is acceptable; (iii) the adjustment, if any, in the Contract Sum; (iv) the adjustment, if any, in the time of completion of the Contract and the construction schedule; and (v) an affidavit stating (a) the proposed substitution conforms to and meets all requirements of the pertinent Specifications and the requirements shown on the Drawings, and (b) the Contractor accepts the warranty and will coordinate the Work to be complete in all respects, as if originally specified by the Architect. Proposals for substitutions shall be submitted in writing to the Architect in

sufficient time to allow the Architect no less than fifteen (15) working days for review. No substitutions will be considered or allowed without the Contractor's submittals of complete substantiating data and information.

§ 3.4.2.3 Whether or not the Architect accepts any proposed substitution, the Contractor shall reimburse the Owner for any fees charged by the Architect or other consultants for evaluating each proposed substitution.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. THE CONTRACTOR RELEASES, INDEMNIFIES AND HOLDS HARMLESS THE OWNER FOR CONTRACTOR'S FORCES' NON-COMPLIANCE WITH OWNER'S DRUG-FREE, ALCOHOL-FREE, WEAPON-FREE, HARASSMENT-FREE, AND TOBACCO-FREE ZONES, CONTRACTOR'S FORCES' NON-COMPLIANCE WITH CRIMINAL LAW, OR CONTRACTOR'S OR CONTRACTOR'S FORCES' NON-COMPLIANCE WITH IMMIGRATION LAW OR REGULATIONS. Any individual found by Owner to have violated these restrictions is subject to permanent removal from the Project, at Owner's request. Contractor shall place similar language in its subcontract agreements, requiring its Subcontractors and Sub-subcontractors to be responsible for their own forces and Contractor shall cooperate with the Owner to ensure Subcontractor and Sub-subcontractor compliance.

§ 3.4.4. Including, but not limited to, the specific requirements of Article 10, Contractor, its subcontractors and vendors shall bear responsibility for compliance with all federal, state and local laws, regulations, guidelines, and ordinances pertaining to worker safety and applicable to the Work. Contractor further recognizes that the Owner and Architect do not owe the Contractor any duty to supervise or direct its work so as to protect the Contractor from the consequences of its own conduct.

§ 3.4.5 Pursuant to Texas Education Code Section 44.034, Contractor must give advance written notice to the Owner if the Contractor or an owner or operator of the Contractor has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Contractor failed to give such notice or misrepresented the conduct resulting in the conviction. This paragraph requiring advance notice does not apply to a publicly-held corporation.

§ 3.4.6 CRIMINAL HISTORY CHECKS

§ 3.4.6.1 So that Owner can obtain the national criminal history record information required by Texas Education Code Section 22.08341 on all "covered employees" (as defined in Section 3.4.6.3) of Contractor, its subcontractors, or any subcontracting entities who will perform the Work, Contractor shall submit to Owner the name and all necessary identifying information necessary to enable Owner to obtain the national criminal history information on those covered employees before they begin the Work. Contractor's submission will include the employee's written authorization for Owner to obtain such criminal history information. Owner may, in its sole discretion, prohibit the use of any employee to perform the Work after its review of the criminal history information, but cannot disclose the criminal history information to Contractor. Contractor shall reimburse Owner for Owner's costs incurred in obtaining the criminal history information.

§ 3.4.6.2 Contractor will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to work on the Project. If Contractor receives information that a covered employee has a reported disqualifying criminal history, then Contractor will immediately remove the covered employee from the Project and notify the Owner in writing within three business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Contractor agrees to discontinue using that covered employee to provide services on Owner's Project. If Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees, Contractor will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 3.4.6.3 For the purposes of this Section, "covered employees" means employees, agents or applicants of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. The definition of "covered employees" does not include individuals working on the Work if the Work: (1.) does not involve the construction, alteration, or repair of an instructional facility as defined herein; (2.) involves construction of a new instructional facility and the person's duties related to other contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or (3.) involves an existing

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instructional facility and: (a.) the work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and (b.) the contracting entity adopts a policy prohibiting employees, contractors, and subcontractors from interacting with students or entering areas used by students, informs employees, contractors, and subcontractors of the policy, and enforces the policy at the work area. "Disqualifying criminal history" means: any conviction or other criminal history information designated by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification under Texas Education Code Section 21.060 and 19 Texas Administrative Code § 249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school; a felony offense under Texas Penal Code Title 5 Offenses Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure chapter 62; or an equivalent offense under federal law or the laws of another state; or a felony violation of Texas Penal Code Section 43.24 related to the sale, distribution or display of harmful materials to a minor. The term "instructional facility" means real property, and improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under the state curriculum for kindergarten through grade 12.

§ 3.4.6.4 Contractor's violation of this section shall constitute a substantial failure under Article 14.

§ 3.4.7 PREVAILING WAGE RATES

§ 3.4.7.1 Contractor, Contractor's Subcontractors and Sub-subcontractors shall pay all workers not less than the general prevailing rate of per diem wages for work of a similar character where the Project is located, as detailed in the "Minimum Wage Schedule" attached to this Agreement. Wages listed are minimum rates only. However, no claims for additional compensation above the Contract Sum shall be considered by the Owner because of payments of wage rates in excess of the applicable rate provided herein. Texas Government Code Section 2258.001 *et seq.*

§ 3.4.7.2 Contractor shall forfeit, as a penalty to the Owner, \$60 for each laborer, worker or mechanic employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the Contract Documents.

§ 3.4.7.3 Owner reserves the right to receive and review payroll records, payment records, and earning statements of employees of Contractor, and of Contractor's Subcontractors and Sub-subcontractors."

"§ 3.4.7.4 In executing the Work under the Contract Documents, Contractor shall comply with all applicable state and federal laws, including but not limited to, laws concerned with labor, equal employment opportunity, safety and minimum wages."

"§ 3.4.7.5 If no schedule is attached, then the parties shall use the wage rate determined by the US Department of Labor in accordance with the Davis-Bacon Act, 40 U.S.C. Section 276a, (which can be accessed on the internet at <https://www.wdol.gov/> or <https://beta.sam.gov/>) effective as of the date of this Agreement.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. The Contractor further warrants that Contractor shall perform the Work in a good and workmanlike manner, continuously and diligently in accordance with generally accepted standards of construction practice for construction of projects similar to the Project, except to the extent the Contract Documents expressly specify a higher degree of finish or workmanship, in which case the standard shall be the higher standard. All material shall be installed in a true and straight alignment, level and plumb; patterns shall be uniform; and jointing of materials shall be flush and level, unless otherwise directed in writing by the Architect. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance (unless such maintenance is Contractor's responsibility), improper operation, or normal wear and tear and normal usage, but such exclusions shall only apply after Owner has taken occupancy of the damaged or defective point of the Project. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. Notwithstanding anything in the Contract Documents to the contrary, Owner and Contractor expressly agree that the warranties stated

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herein shall mean the individual warranties associated with each particular Work within the Project, and each such individual warranty shall run from the applicable Work's Final Completion date (unless otherwise expressly provided in the applicable Contract Documents for that particular Work). Contractor's express warranty is in addition to, and not in lieu of, Owner's other available remedies. All required warranties on equipment, machinery, materials, or components shall be submitted to the Architect on the manufacturer's or supplier's approved forms for delivery to the Owner. The warranties set out in this Subparagraph are not exclusive of any other warranties or guarantees set out in other places in the Contract Documents or expressed or implied under applicable law.

§ 3.5.2 Contractor shall certify that the Project has been constructed in general conformance with the Architect's or Engineer's plans, specifications, and Construction Documents, as modified from time to time pursuant to the terms of the Contract Documents. Contractor shall fully complete a "Certification of Project Completion" as required by 19 Texas Administrative Code Section 61.1040.

§ 3.5.3 In the event of failure of materials, products, or workmanship, either during construction or the warranty period, the Contractor shall take appropriate measures to ensure correction of defective Work or replacement of the defective items, without cost to the Owner. Such warranty shall be maintained notwithstanding that certain systems may be activated prior to Substantial Completion as required for the satisfactory completion of the Project. Upon written notice from the Owner or Architect, the Contractor shall promptly remedy defects as covered by Contractor's warranty. If Contractor does not respond to the written notice, either by beginning corrective work or notifying Owner in writing regarding when corrective work will begin, within ten days of Contractor's receipt of the written notice, then the Owner may take measures to correct the Work and Contractor will be obligated to reimburse Owner's costs. The provisions of this subparagraph shall be in addition to, and not in lieu of, any other rights and remedies available to the Owner.

§ 3.5.4 When deemed necessary by the Owner and prior to installation of any item specifically made subject to a performance standard or regulatory agency standard under any provision of the Contract Documents, Contractor shall furnish proof of conformance to the Architect. Proof of conformance shall be in the form of:

- .1 an affidavit from the manufacturer certifying that the item is in conformance with the applicable standards; or
- .2 an affidavit from a testing laboratory certifying that the product has been tested within the past year and is in conformance with the applicable standards; or
- .3 such further reasonable proof as is required by the Architect.

§ 3.5.5 The Contractor agrees to issue in the name of the owner, or assign to the Owner at Final Completion of the Work, such assignment to be effective no later than Final Completion, for any and all material, equipment, fixtures and furniture (if supplied or installed by Contractor or its subcontractors), other special warranties, and manufacturers' warranties relating to materials and labor used in the Work. Contractor further agrees to perform the Work in such manner so as to preserve any and all manufacturers' warranties. All forms will be required to be submitted prior to Final Payment.

§ 3.5.6 The warranties of Contractor provided in Section 3.5 shall in no way limit or abridge the warranties of the suppliers of equipment and systems which are to comprise a portion of the Work and all such warranties shall be in form and substance as required by the Contract Documents. Contractor shall take no action or fail to act in any way which results in the termination or expiration of such third party warranties or which otherwise results in prejudice to the rights of Owner under such warranties. Contractor agrees to provide all notices required for the effectiveness of such warranties and shall include provisions in the contracts with the providers and manufacturers of such systems and equipment whereby Owner shall have a direct right, but not a duty, of enforcement of such warranty obligations.

§ 3.5.7 Contractor shall maintain a complete and accurate schedule of the date(s) of Substantial Completion, the date(s) of Final Completion, and the dates upon which the warranty under Section 12.2 herein on each phase or building will expire. Contractor shall provide a copy of such schedules to Owner and Architect. Prior to termination of the warranty period under Section 12.2 herein, Contractor shall accompany Owner and Architect on re-inspection of each Work in the Project and Contractor shall be responsible for correcting any warranty items which are observed or reported during the warranty period under Section 12.2 herein. Contractor shall prosecute such warranty work under

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Section 12.2 herein without interruption until accepted by Owner and Architect, even though such work should extend beyond the warranty period under Section 12.2 herein. If Contractor fails to provide the schedules to Owner and Architect, Contractor's warranty obligation described herein shall continue until such inspection is conducted and deficiencies are corrected.

§ 3.5.8 Prior to receipt of Final Payment, Contractor shall:

- .1 Obtain duplicate original warranties, executed by all subcontractors, making the dates of beginning of the warranties the Date of Final Completion; and the warranties of suppliers and manufacturers, making the dates of beginning of the warranties no later than the Date of Final Completion;
- .2 Verify that the documents are in proper form and contain full information;
- .3 Co-sign warranties when required;
- .4 Bind all warranties in commercial quality 8-1/2 X 11 inch three-ring binder, with hardback, cleanable, plastic covers;
- .5 Label the cover of each binder with a typed or printed title labeled "WARRANTIES", along with the title of the Project; name, address and telephone number of Contractor; and name of its responsible principal;
- .6 Include a Table of Contents, with each item identified by the number and title of the specification section under which the product is specified;
- .7 Separate each warranty with index tab sheets keyed to the Table of Contents listing; and
- .8 Deliver warranties and bonds in the form described above, to the Architect who will review same prior to submission to the Owner.

§ 3.6 Taxes

Owner is an exempt entity under the tax laws of the State of Texas. Texas Tax Code § 151.309; 34 TAC § 3.322. The Owner represents that this Project is eligible for exemption from the State Sales Tax on tangible personal property and material incorporated in the Project, provided that the Contractor fulfills the requirements of the Texas Tax Code § 151.309, § 151.310, § 151.311 and 34 TAC § 3.291; 3.287. For the purpose of establishing exemption, it is understood and agreed that the Contractor may be required to segregate materials and labor costs at the time a Contract is awarded. Contractor will accept a Certificate of Exemption from the Owner, pursuant to Texas Tax Code § 151.054(e); § 151.155; and 34 TAC § 3.287. Contractor shall obtain Certificates of Resale from Contractor's suppliers. Texas Tax Code § 151.154, 34 TAC § 3.285. Failure of Contractor or any Sub-Contractor to obtain Certificates of Resale from their suppliers shall make the Contractor or Sub-Contractor responsible for absorbing the tax, without compensation from Owner. Contractor shall pay all necessary local, county and state taxes, income tax, compensation tax, social security and withholding payments as required by law. CONTRACTOR HEREBY RELEASES, INDEMNIFIES, AND HOLDS HARMLESS OWNER FROM ANY AND ALL CLAIMS AND DEMANDS MADE AS A RESULT OF THE FAILURE OF CONTRACTOR OR ANY SUBCONTRACTOR TO COMPLY WITH THE PROVISIONS OF ANY OR ALL SUCH LAWS AND REGULATIONS.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 After Architect has filed the plans and specifications with the Texas Department of Licensing and Regulation, Architect shall notify Contractor that Contractor may make and submit the applications for the building permit. The Owner shall pay the municipality directly for the building permit and all other development "impact" fees, if any. The Contractor shall continue to be responsible for payment of other permits, governmental fees, licenses, and inspections necessary for proper execution of the Contract and which are legally required when bids or proposals are received. Such fees and expenses shall only be reimbursable to Contractor if expressly agreed to herein.

§ 3.7.1.1 The Owner shall pay directly to the governing authority the cost of all permanent property utility assessments and similar connection charges.

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§ 3.7.1.2 The Contractor shall pay directly all temporary utility charges, tap charges, and water meter charges, without reimbursement from Owner. After consultation with the Owner, the Contractor shall also obtain all permits and approvals, and pay all fees and expenses, if any, associated with National Pollutant Discharge Elimination System (NPDES) regulations administered by the Environmental Protection Agency (EPA) and local authorities, if applicable, that require completion of documentation and/or acquisition of a "Land Disturbing Activities Permit" for the Project. Also after consultation with the Owner, the Contractor shall obtain all permits and approvals, and pay all fees and expenses, if any, associated with Storm Water Pollution Prevention and Pollution Control Plan (SWPPP) regulations administered by the Texas Commission on Environmental Quality (TCEQ) and local authorities. Contractor's obligations under this Section may or may not require it to obtain or perform engineering services during the pre-construction phase to prepare proper drainage for the construction sites. Any drainage alterations made by Contractor during the construction process, which require the issuance of a permit, shall be at Contractor's sole cost. Reimbursable expenses shall not include any fines or penalties assessed against the Contractor, Contractor's subcontractors, the Project, or the Owner.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. In addition, Contractor shall authorize posting of any notices required of Owner pursuant to Texas Business and Commerce Code, Section 16.0001, or any notices concerning the Workers Compensation insurance carried by other parties involved in the Project, including without limitation, Architect, at the same location where Contractor posts notices regarding Workers Compensation. If applicable, the Contractor shall procure and obtain all bonds required of the Owner or the Contractor by the municipality in which the Project is located or by any other public or private body with jurisdiction over the Project. In connection with such bonds, the Contractor shall prepare all applications, supply all necessary back-up material and furnish the surety with any required personal undertakings. The Contractor shall also obtain and pay all charges for all approvals for street closings, traffic control, parking meter removal and other similar matters as may be necessary or appropriate from time to time for the performance of the Work."

§ 3.7.3 If the Contractor performs Work when Contractor knows or reasonably should have known it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, the Contract Documents, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than three (3) business days after first observance of the conditions. Contractor agrees that this is a reasonable notice requirement. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially, report findings and a recommended resolution in writing to Owner and Contractor. If Owner's Board of Trustees or Board's designee and Contractor cannot agree on an equitable adjustment to the Contract Sum or Contract time, then either party may pursue alternative dispute resolution as provided for in Article 15 within ninety (90) days of the Architect's recommendation. If such conditions will cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, the Architect will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect in writing. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.7.6 The Contractor shall be responsible for timely notification to and coordination with all utility companies regarding the provision of services to the Project. The Contractor shall inform the Architect at once when the Owner's

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participation is required, and the Architect shall immediately notify the Owner. Connections for temporary and permanent utilities and payment for temporary utilities services required for the Work, whether the Work is new construction or renovation of an existing facility, are the responsibility of the Contractor unless otherwise agreed. If the Work is new construction, then payment for temporary and/or permanent utility services shall be the responsibility of the Contractor until Substantial Completion.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection, unless required to do so by the terms of the Construction Documents.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum, unless required to do so by the terms of the Construction Documents, shall be adjusted accordingly. The amount of the adjustment shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.8.4 When performing Work under allowances, Contractor shall solicit and receive not less than three written proposals and shall provide the Work as directed by the Architect, upon Owner's written approval, on the basis of the best value to the District.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. In addition, the Contractor may employ a project manager and necessary assistants who may supervise several Project sites. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be similarly confirmed in writing. Other communications shall be similarly confirmed on written request in each case. Questions about plan interpretation or directions shall be submitted to the Architect in the form of a written request for information and the Architect shall respond to such request for information in a reasonable and timely fashion. Contractor's selection of project manager or superintendent(s) shall be approved by Owner, and Contractor shall not replace the project manager or superintendent(s) without Owner's consent or until a replacement project manager or superintendent(s) has been selected in accordance with this Section. The Owner may reject or require removal of any job superintendent, project manager or employee of the Contractor, Subcontractor or Sub-Subcontractor involved in the Project. Contractor shall provide an adequate staff for the proper coordination and expedition of the Work. Owner reserves the right to require Contractor to dismiss from the Work any employee or employees that Owner may deem incompetent, careless, insubordinate, or in violation of any provision in these Contract Documents. This provision is applicable to Subcontractors, Sub-Subcontractors and their employees.

§ 3.9.2 *[Intentionally deleted.]*

§ 3.9.3 Contractor's superintendent shall be present full-time on the site as soon as possible after commencement of the Work, and shall remain assigned to this Work, and present on the site during performance of the Work, throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion pursuant to Section 9.8, have been completed or corrected. From Substantial Completion until Final Completion, the superintendent shall be on the site as necessary to ensure that Final Completion occurs within 30 days of Substantial Completion.

§ 3.9.4 Owner shall be notified not less than 24 hours before any time that superintendent will not be present at the site for any reason except periodic illness. If the reason is due to illness, then Owner shall be notified at the beginning of that day. Owner shall be notified of the identity of the acting superintendent. In the event the superintendent is absent from the site and notice has not been provided nor has an acting superintendent been assigned to the Work, then an amount equal to the superintendent's daily rate shall be deducted from the amount owed to the Contractor under general conditions for such day.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The schedule shall not interfere with the operation of Owner's existing facilities and operations without Owner's prior written approval.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall prepare and submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.10.4 The Contractor shall hold weekly progress meetings at the Project Site, or at such other time and frequency as are acceptable to the Owner. Progress of the work shall be reported at said meetings with reference to Contractor's construction schedule. The Contractor shall submit to the Architect with each monthly application for payment a copy of the progress schedule showing all modifications required, and shall take whatever corrective action is necessary to assure that the project completion schedule is met at no additional cost to Owner, except as allowed herein. In the event that Contractor shall fall behind schedule at any time, Contractor shall develop and deliver a recovery plan to the Owner with a recovery schedule and a program describing the additional manpower, overtime, material expediting, resequencing of the Work and other steps Contractor shall take to meet the requirements of the Contract. Contractor shall not be entitled to compensation from the Owner or any increase in the Contract Sum for the schedule recovery efforts. No approval or consent by the Owner of any plan for resequencing or acceleration of the Work submitted by Contractor shall constitute a waiver by Owner of any damages or losses which Owner may suffer by reason of such resequencing or the failure of Contractor to meet the Substantial Completion Date or the Final Completion Date.

§ 3.11 Documents and Samples at the Site

The Contractor shall maintain and make available at all times, at the Project site, the Construction Documents, including Change Orders, Construction Change Directives, field test records (including environmental inspection and test records), inspection certificates or records, manufacturers' certificates, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner at all times, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.11.1 In addition to any other requirement in the Contract Documents and prior to installation, Contractor shall furnish or cause a subcontractor to furnish, for the Owner's and Architect's written approval, a physical sample of each specified item, product, fixture, or device which is visible by the general public and/or attached to an architecturally-finished surface. Samples shall be suitably labeled, adequately protected, and properly stored at the site. Samples which are approved and undamaged will be considered to be suitable for incorporation into the Work.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. Specific dimensions, quantities, installation and performance of equipment and systems in compliance with the Construction Documents and the Contract Documents remain the Contractor's responsibility.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on

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all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, completeness and accuracy of the services, certifications, and approvals performed or provided by such design professionals. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. A registered architect must prepare plans and specifications for all the Work, as governed by the Texas Occupations Code Chapter 1051; and a registered engineer must prepare plans, specifications and estimates for all Work governed by Texas Occupations Code Chapter 1001. In the event that Contractor retains a licensed design professional under the terms of this paragraph, Contractor shall require that the licensed design professional carry commercial general liability and errors and omissions insurance coverage in the same amounts and forms as required of the Architect on this Project. In the event that the licensed design professional retained by the Contractor will be conducting on-site services or observations, the licensed design professional shall also carry worker's compensation insurance and comprehensive automobile liability in the same amounts and forms as required of the Architect on this Project.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.12.11 The Contractor shall submit complete drawings, data and samples to the Architect at least fifteen (15) days prior to the date the Contractor needs the reviewed submittals and samples returned. The Contractor shall be prepared to submit color samples on any key items (such as quarry tile, vinyl wall covering, etc.) within fifteen (15) days of the award of Subcontract(s). All color samples required for the Work shall be received within sixty (60) days of the date of the approval of the Contract Sum if the Project is an A101 project, or Guaranteed Maximum Price if the Project is an A133 project. Once samples of all key items are received, the Architect will finalize color selections.

§ 3.12.12 The Contractor shall submit the number of copies of product data and samples which the Contractor and subcontractors need for their use, plus two additional sets for the Architect, one additional set for the Owner and one additional set for each of the Architect's consultants involved with the particular section of Work. Where shop drawings are involved, the Contractor shall submit one high quality reproducible transparency and one opaque print of the shop drawing for the Architect, plus one additional opaque print for each of the Architect's consultants involved with the particular section of Work. The reproducible transparency will be marked by the Architect and/or its consultants. After final review and correction of the submittal, the Contractor shall send one corrected set to the Architect and each of the Architect's consultants involved with the particular section of Work.

§ 3.12.13 The Architect's review of Contractor's submittals shall be limited to examination of an initial submittal and one (1) re-submittal. The Architect's review of additional submittals will be made only with the consent of the Owner after notification by the Architect. The Owner shall be entitled to reimbursement from the Contractor of amounts paid to the Architect for evaluation of such additional re-submittals.

§ 3.12.14 The Contractor represents and warrants that all shop drawings shall be prepared by persons and entities possessing expertise and experience in the trade for which the shop drawings are prepared and, if required by the Architect or applicable law, by a licensed engineer.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other adversity is solely the responsibility of the Contractor.

§ 3.13.3 The Contractor and its subcontractors shall not erect any sign on the Project site without the prior written consent of the Owner.

§ 3.13.4 Contractor shall ensure that the Work, at all times, is performed in a manner that affords Owner reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed in such a manner that public areas adjacent to the Site of the Work shall be free from all debris, building material and equipment likely to cause hazardous conditions. Without limitation of any other provision of the Construction Documents, Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of any area or building adjacent to the site of the Work, or the building, in the event of partial occupancy.

§ 3.13.5 Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrance and parking areas other than those designated by the Owner. The Contractor shall comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the Building.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly, provided, however, that any such cutting, fitting or patching can only be performed if the cutting, fitting or patching results in Work that is in accordance with the Construction Documents and Contract Documents. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.14.3 No cutting of structural elements will be permitted unless specifically approved in writing by Architect. Fitting and patching shall only be done with new products, and shall only be performed by those skilled in performing the original Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall, on a daily basis, keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. Contractor shall provide on-site containers for the collection of waste materials, debris and rubbish, and shall periodically remove waste materials, debris and rubbish from the Work and dispose of all such materials at legal disposal areas away from the site. All cleaning operations shall be scheduled so as to ensure that contaminants resulting from the cleaning process will not fall on newly-coated or newly-painted surfaces. Immediately after unpacking materials, all packing case lumber or other packing materials, wrapping or other like flammable waste shall be collected and removed from the building and premises. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project. Care shall be taken by all workers not to mark, soil, or otherwise deface any finish. In the event that any finish becomes defaced in any way by mechanics or workers, the Contractor or any of its Subcontractors shall clean and restore such surfaces to their original condition.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.15.3 The Contractor shall be responsible for the protection of the Work. Prior to the Architect's inspection for Substantial Completion, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.

§ 3.15.4 After construction is complete, Contractor shall: (1) employ skilled workers for final cleaning; (2) remove grease, mastic adhesive, dust, dirt, stains, fingerprints, labels and other foreign materials from all sight-exposed

interior and exterior surfaces; (3) wash and shine glazing and mirrors; (4) polish glossy surfaces to a clear shine; (5) vacuum clean carpeted and similar soft surfaces; (6) clean (damp mop with clean mop and water) resilient and hard surface floors repeating as necessary until no visible residue remains on floors; (7) clean plumbing fixtures to a sanitary condition; (8) clean surfaces of all equipment and remove excess lubrication; (9) clean permanent filters and replace disposable filters in ventilating systems if units were operated during construction and clean ducts, blowers and coils; (10) clean light fixtures; (11) remove waste, foreign matter and debris from roofs, gutters, area ways and drainage ways; (12) remove waste, debris and surplus materials from the site; (13) remove stains, spills and foreign substances from paved areas; and (14) broom clean exterior concrete and paved surfaces and rake clean the grounds.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect and their designated representatives with access to the Work in preparation and progress wherever located. The presence of the Owner, Architect or their representatives does not constitute acceptance or approval of the Work.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. THE CONTRACTOR SHALL DEFEND SUITS OR CLAIMS FOR INFRINGEMENT OF COPYRIGHTS AND PATENT RIGHTS, SHALL WAIVE AND RELEASE CLAIMS AGAINST THE OWNER AND ARCHITECT, AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER AND ARCHITECT FROM LOSS ON ACCOUNT THEREOF, PROVIDED, HOWEVER, CONTRACTOR SHALL NOT BE RESPONSIBLE TO ARCHITECT FOR SUCH DEFENSE OR LOSS WHEN A PARTICULAR DESIGN, PROCESS OR PRODUCT OF A PARTICULAR MANUFACTURER OR MANUFACTURERS IS REQUIRED BY THE CONTRACT DOCUMENTS, OR WHERE THE COPYRIGHT VIOLATIONS ARE CONTAINED IN DRAWINGS, SPECIFICATIONS OR OTHER DOCUMENTS PREPARED BY THE ARCHITECT, AND SHALL NOT BE RESPONSIBLE TO OWNER IF OWNER REQUIRES A PARTICULAR DESIGN, PROCESS OR PRODUCT THAT CONSTITUTES A COPYRIGHT VIOLATION. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Owner and Architect in writing.

§ 3.18 Indemnification

§ 3.18.1 TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL WAIVE AND RELEASE CLAIMS AGAINST AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, ARCHITECT, OWNER'S TRUSTEES, ARCHITECT'S CONSULTANTS, OWNER'S CONSULTANTS AND OFFICERS, AGENTS AND EMPLOYEES OF ANY OF THEM, FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, CAUSES OF ACTION, SUITS, JUDGMENTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, PROVIDED THAT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (INCLUDING THE WORK ITSELF) INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, ANYONE THEY CONTROL OR EXERCISE CONTROL OVER, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN PART BY ANY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF OWNER OR OWNER'S CONSULTANTS OR OTHER INDEMNIFIED PARTIES. SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY THAT WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS SECTION 3.18. ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY CONTRACTOR TO THE INDEMNIFIED PARTIES, AND ANY COST AND EXPENSES SO INCURRED BY INDEMNIFIED PARTIES SHALL BEAR INTEREST UNTIL REIMBURSED BY CONTRACTOR, AT THE RATE OF INTEREST PROVIDED TO BE PAID BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF TEXAS.

§ 3.18.2 IN CLAIMS AGAINST ANY PERSON OR ENTITY INDEMNIFIED UNDER THIS SECTION 3.18 BY AN EMPLOYEE OF THE CONTRACTOR, A SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION UNDER SECTION 3.18.1 SHALL NOT BE LIMITED BY A LIMITATION

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ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR A SUBCONTRACTOR UNDER INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS.

§ 3.18.3 THE OBLIGATIONS OF THE CONTRACTOR UNDER THIS SECTION 3.18 SHALL NOT EXTEND TO THE LIABILITY OF THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND AGENTS AND EMPLOYEES OF ANY OF THEM, CAUSED BY OR RESULTING FROM: (1) DEFECTS IN PLANS, DESIGNS, OR SPECIFICATIONS PREPARED, APPROVED, OR USED BY THE ARCHITECT OR ENGINEER; OR (2) NEGLIGENCE OF THE ARCHITECT OR ENGINEER IN THE RENDITION OR CONDUCT OF PROFESSIONAL DUTIES CALLED FOR OR ARISING OUT OF THE CONSTRUCTION CONTRACT AND THE PLANS, DESIGNS, OR SPECIFICATIONS THAT ARE A PART OF THE CONSTRUCTION CONTRACT; AND (3) ARISING FROM : (A) PERSONAL INJURY OR DEATH; (B) PROPERTY DAMAGE; OR (C) ANY OTHER EXPENSE THAT ARISES FROM PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, OR AS OTHERWISE LIMITED BY TEXAS CIVIL PRACTICE & REMEDIES CODE SECTION 130.001 *ET SEQ.*

§ 3.18.4 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS IS PROVIDED IN SECTION 3.18.1 ABOVE. LIKEWISE, CONTRACTOR AGREES TO INDEMNIFY AND TO HOLD THE OWNER'S OTHER CONTRACTORS HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS PROVIDED IN SECTION 3.18.1 ABOVE.

§ 3.18.5 THE PROVISIONS OF SECTION 3.18 IN ITS ENTIRETY SHALL SURVIVE THE COMPLETION, TERMINATION OR EXPIRATION OF THIS CONTRACT.

§ 3.18.6 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under Paragraph 3.18, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect.

§ 3.18.7 It is understood and agreed that Subparagraph 3.18.1 above is subject to, and expressly limited by, the terms and conditions of Texas Civ. Prac. & Rem. Code Ann. Sec. 130.001 to 130.005, as amended.

§ 3.18.8 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY {INCLUDING THE WORK ITSELF) INCLUDING LOSS OF USE, TO THE SAME EXTENT AS PROVIDED IN SUBPARAGRAPH 3.18.1 ABOVE.

§ 3.19 ANTITRUST VIOLATION. To permit the Owner to recover damages suffered in antitrust violations, Contractor hereby assigns to Owner any and all claims for overcharges associated with this Contract which violate the antitrust laws of the United States, 15 U.S.C.A. Section 1 *et seq.* The Contractor shall include this provision in its agreements with each subcontractor and supplier. Each subcontractor shall include such provisions in agreements with sub-subcontractors and suppliers.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner.

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§ 4.1.3 Except as expressly provided herein, the Contractor shall not be relieved of Contractor's obligation to perform the Work in strict accordance with the Construction Documents and the Contract Documents by the duties, responsibilities, or activities of the Architect.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction, until final payment is due, and, with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Section 12.2.2. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, or as they may be amended in the future.

§ 4.2.2 Architect shall visit the site at least once per week (or more per week when deemed necessary by the Owner's Superintendent or when necessary to protect Owner's interests) and at other intervals appropriate to the stage of construction, to inspect the progress, quantity and quality of the work completed, to reject any observed nonconforming Work, and to determine if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Construction Documents and the Contract Documents and on time. Furthermore, a minimum of two job site meetings per month from commencement of construction through Final Completion will be initiated by the Architect and attended by the Contractor. Attendees will include the Owner, the Contractor's project manager and/or superintendent, Architect's project representative, and Architect. The Architect, Owner and their representatives shall at all times have access to the Work. Architect or its structural consultant will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition, Architect or its structural consultant will provide on-site observations prior to covering up or closing up of portions of the construction which, if covered, would conceal problems with the structural integrity of the Project. Contractor shall not close or cover said Work until said observations have occurred. Contractor or Architect will advise Owner of the need for any third-party laboratory or testing services to assist the Architect and Owner. On the basis of the on-site observations by Architect, Architect shall keep Owner and Contractor informed of the progress and quality of the Work, through Architect's field reports, and shall guard Owner against defects and deficiencies in the Work. Architect shall promptly notify Owner and Contractor orally regarding any defect or nonconforming Work, which shall be followed by notice in writing of defects or nonconforming Work noted and corrective actions taken or recommended. The Architect, however, shall not have control over or responsibility for the Contractor's construction means, methods, techniques, sequences, procedures, or safety programs, but this does not relieve Architect of Architect's responsibilities under this Agreement. Any services by Contractor made necessary by Contractor's construction defect or nonconforming Work shall be performed at no additional cost to Owner.

§ 4.2.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work. The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect, or request of the Contractor.

§ 4.2.4 Communications

Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. However, Owner reserves the right to communicate directly with the Contractor and Subcontractors. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner.

§ 4.2.5 As further provided in the Contract Documents, based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect shall reject Work that does not conform to the Construction Documents and the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have will recommend to Owner additional inspection or testing of the Work in accordance with the provisions of the Contract Documents,

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whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Owner to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. Architect and/or Contractor shall promptly notify, orally and in writing, the other party and Owner of any fault or defect in the Project or nonconformance with Construction Documents or the Contract Documents they may respectively discover and each, upon discovery of the defect or nonconformance, shall be responsible for notifying the other party and Owner of those corrective actions they respectively take; provided, however, Contractor shall have no duty to notify Owner of discoveries made or actions taken by Architect. Testing or inspections required by this subparagraph shall be conducted subject to the requirements of Chapter 2269 of the Texas Government Code.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Construction Documents and the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or Separate Contractors while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation of equipment or systems, all of which remain the responsibility of the Contractor as required by the Construction Documents and the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. If any submittal does not comply with the requirements of the Construction Documents or the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples.

§ 4.2.8 The Architect shall review, prepare and make recommendations to Owner regarding all Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Construction Documents and the Contract Documents, accompanied by all supporting documentation. The Architect may authorize minor changes in the Work not involving an adjustment in Contract Sum or Guaranteed Maximum Price, or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified, as provided in Section 7.4. The Architect shall accept requests by the Owner, and shall review properly prepared, timely requests by the Contractor for changes in the Work, including adjustments to the Contract Sum or Guaranteed Maximum Price, or Contract Time. A properly prepared request for a change in the Work by the Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Construction Documents or the Contract Documents, and do not change the Contract Sum or Guaranteed Maximum Price, or Contract Time, then the Architect may issue an order for a minor change in the Work with prior written notice to the Owner or recommend to the Owner that the requested change be denied. The Architect is not authorized to approve changes involving major systems such as: Heating, Ventilation and Air Conditioning ("HVAC"); roof; foundation; outward appearance; color schemes; floor plans; building materials; drainage or mechanical equipment without Owner's prior written consent.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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§ 4.2.11 The Architect will interpret and make recommendations concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations or recommendations of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and recommendations, the Architect will endeavor to secure faithful performance by both Owner and Contractor.

§ 4.2.13 The Owner's decisions on matters relating to aesthetic effect shall be final.

§ 4.2.14 The Architect will review and respond to requests for information about the Construction Documents and the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information, at no additional cost to the Owner.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect in writing of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect shall notify in writing the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. All subcontractors shall be procured in accordance with Texas Education Code Chapter 44, Subchapter B, and Texas Government Code Chapter 2269, as applicable. A notice of no reasonable objection shall in no way relieve the Contractor from full responsibility for performance and completion of the Work and its obligations under the Contract Documents. The Contractor shall be fully responsible for the performance of its subcontractors, including those recommended or approved by the Owner.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. When the parties agree on a proposed substitute Subcontractor, then the Contract Sum and Contract Time may be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.2.5 Each Contractor or subcontractor shall be required to completely familiarize itself with the plans and specifications, to visit the Work site to completely familiarize itself with existing conditions, and to conduct any other

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appropriate investigations, inspections or inquiries prior to submission of a bid or proposal. No increases in Contract Sums or Guaranteed Maximum Price shall be allowed for failure to so inspect or investigate.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. The terms and conditions of the Contract Documents shall be incorporated by reference into each subcontract agreement, included as provided below. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors. Each subcontractor shall provide proof of insurance to Contractor consistent with the Contractor's insurance to Owner and in an amount commensurate with the Work to be performed by the Subcontractor.

§ 5.3.1 Neither the Owner nor the Architect shall be obligated to pay or to insure the payment of any monies to subcontractors due to any non-payment to the Contractor or non-payment of subcontractors by the Contractor.

§ 5.3.2 The Contractor shall require any potential subcontractor to disclose to the Contractor any ownership interest or familial relationship between the Contractor, the Architect or the Owner and the potential subcontractor prior to entering into a subcontract. Contractor shall report to Owner all such disclosures and the Owner shall have the right, in its sole discretion, to reject any such affiliated subcontractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for any unperformed portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause or convenience pursuant to Article 14 or abandonment of the Project by the Contractor; and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights and obligations of the surety, if any, obligated under bond relating to the Contract; and
- .3 the Subcontractor provides bonds as required by law or prime contractors and by Owner.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Such assignment shall not constitute a waiver by Owner of its rights against Contractor, including, but not limited to, claims for defaults, delays or defects for which a subcontractor or material vendor may also be liable.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. Owner shall only be responsible for compensating subcontractors for Work performed or materials furnished from and after the date on which the Owner gives written notice of its acceptance of the subcontract agreement. Owner shall not be responsible for any Work performed or materials furnished by subcontractors prior to the date of Owner's written notice of acceptance.

§ 5.5 NOTICE OF SUBCONTRACTOR DEFAULT

Contractor shall promptly notify Owner and Architect of any material defaults by any Subcontractor or Sub-subcontractor. Notwithstanding any provision contained in Article 5 to the contrary, it is hereby acknowledged and agreed that Owner has in no way agreed, expressly or implicitly, nor will Owner agree, to allow any

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Subcontractor, Sub-subcontractor or other materialman or worker employed by Contractor the right to obtain a personal judgment or to create a mechanic's or materialman's lien against Owner for the amount due from the Owner or the Contractor.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. The Owner reserves the right to perform other non-Project-related construction work, maintenance and repair work, and school program operations at the site and near the site during the time period of the Work.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Contractor shall coordinate the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor to ensure that the Work remains on schedule. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement between the Owner and Contractor. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 *[Intentionally deleted.]*

§ 6.2 Contractor's Responsibility

§ 6.2.1 It shall be the responsibility of the Contractor to assist, review, and coordinate the scheduling of work performed by any of the Owner's Separate Contractors. In addition, the Contractor shall be responsible for coordinating and providing all construction administration necessary for the Work and the work of any of Owner's Separate Contractors. The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for site access and introduction and storage or staging of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents. Contractor shall be responsible for coordination between Contractor's subcontractors and Owner's Separate Contractors. Contractor shall review Owner's contract with Owner's Separate Contractors and become familiar with the requirements and scope of services contained therein.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify in writing the Architect and Owner of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work, and shall promptly report in writing to the Architect and Owner if Owner's Separate Contractors fail in any way to timely perform their services or negatively impact Contractor's schedule or ability to perform the Work. Failure of the Contractor to notify in writing the Architect and Owner of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper and is performed in a timely manner to receive the Contractor's Work. The Contractor shall not be responsible for latent discrepancies or defects in the construction or operations by the Owner or Separate Contractor.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction.

§ 6.2.3.1 If the Architect is required to provide additional services as provided in the Agreement between the Owner and the Architect, specifically relating to additional compensation for the Architect for evaluating an excessive number of claims submitted by the Contractor or others in connection with the Work in accordance with the Owner's Agreement with the Architect, then such services shall be paid for by the Contractor through the Owner, unless the additional services result from negligence of or an act or omission by the Architect.

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§ 6.2.3.2 If the Architect provides services in connection with a legal proceeding, except when the Architect is a party thereto, and the Owner requests the Architect in writing to provide such services, then the cost of such services shall be paid for by the party whose act or omission was a proximate cause of the problem that led to the requirement to provide such services. Such services shall be paid for by such party through the Owner, who upon receipt of same shall reimburse the Architect.

§ 6.2.3.3 All construction costs resulting from the Contractor's negligence, lack of oversight, inattention to detail, failure to investigate, or failure to follow the Construction Documents or Contract Documents, will be borne by the Contractor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Owner will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. A properly prepared written request for a change in the Work by Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a recommendation to Owner.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents or Construction Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work. Contractor shall not make any claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price due to: a change in the materials used; a change in the specified manner of constructing and/or installing the Work; or additional labor, services, or materials, beyond that actually required by the terms of the Construction Documents or the Contract Documents, unless made pursuant to a written order or directive from Owner authorizing Contractor to proceed with a change in the Work. No claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price shall be valid unless so ordered or directed.

§ 7.1.4 The total Contractor mark-up for overhead, profit, or fee for work performed by the Contractor's own forces shall not exceed 10% of the cost of the change in the Work. The total Contractor mark-up for overhead, profit or fee for supervision of work performed by subcontractors' forces shall not exceed 4% of the cost of the change in the Work. The total subcontractor mark-up for overhead, profit or fee for work performed by the subcontractor's forces shall not exceed 10% of the cost of the change in the Work. In no event shall total mark-up for overhead, profit or fee in any work which involves a subcontractor or one or more sub-subcontractors, regardless of who performs the work, exceed 14% of the total cost of the change in the Work.

§ 7.1.5 Allowance balances may be used to fund changes in the Work. The Contractor will not be allowed an overhead, profit, or fee mark-up when changes in the Work are funded by one of the Allowances.

§ 7.1.6 If the Contract Sum is \$1,000,000.00 or more, or if the Contract Sum is less than \$1,000,000.00, and any Change Order, Construction Change Directives, or other Changes in the Work would increase the Contract Sum to \$1,000,000.00 or more, the total of all Change Orders, Construction Change Directives, or other Changes in the Work

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may not increase the Contract Sum by more than 25% of the original Contract Sum. Any Change Order, Construction Change Directive, or other Change in the Work that would exceed that limit is void and of no effect. Texas Education Code § 44.0411.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum or Guaranteed Maximum Price; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods used in determining adjustments to the Contract Sum or Guaranteed Maximum Price may include those listed in Section 7.3.3.

§ 7.2.3 Contractor stipulates that acceptance of a Change Order by the Contractor constitutes full accord and satisfaction for any and all Claims, whether direct or indirect, arising from the subject matter of the Change Order.

§ 7.2.4 In no event shall a single change, or the aggregate of all changes, result in the total costs, reimbursements and fees exceeding the Contract Sum or the Guaranteed Maximum Price, unless agreed to in writing by Owner prior to the commencement of such modified or changed Work.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum, or Guaranteed Maximum Price, or Contract Time, or all of the above. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum or Guaranteed Maximum Price and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum or Guaranteed Maximum Price, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon (additional mark-ups for overhead, profit, and fees will not be allowed);
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee, subject to the limitations of subparagraph 7.4.1; or
- .4 As provided in Section 7.3.4, subject to the limitations of subparagraph 7.1.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum or Guaranteed Maximum Price, then Architect shall determine the adjustment on the basis of the amount by which the Contractor's direct costs have actually been increased over the direct cost of performing the Work without the Change in the Work. Direct costs shall be limited to the following:

- .1 Actual costs of labor, including applicable payroll taxes, and workers' compensation insurance;
- .2 Actual costs of materials, supplies, and equipment, including cost of transportation used in performing the Change in the Work;
- .3 Actual rental costs of machinery and equipment rented from third parties, exclusive of hand tools;
- .4 Actual costs of premiums for all bonds and insurance, and permit fees;
- .5 Costs of supervision and field office personnel directly attributable to the change.

The Contractor shall keep and present, in such form as the Architect or Owner may prescribe, an itemized accounting of the items listed above, together with appropriate supporting documentation.

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§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Guaranteed Maximum Price, or Contract Time, provided that, pursuant to Texas Government Code Section 2251.0521, Contractor shall not be required to proceed with additional work nor be responsible for any damages resulting from not proceeding with such work absent a fully-executed Change Order when such Construction Change Directive, either individually or collectively with other Construction Change Directives for which no Change Order has been fully executed, exceeds ten percent (10%) of the Guaranteed Maximum Price or the Contract Sum. No subcontractor shall be required to proceed with additional work nor be responsible for any damages resulting from not proceeding with such work absent a fully-executed Change Order when such Construction Change Directive, either individually or collectively with other Construction Change Directives for which no Change Order has been fully executed, exceeds ten percent (10%) of the subcontractor's contract amount.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum or Guaranteed Maximum Price, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost plus the Contractor's allocated percent of profit and overhead, all as confirmed by the Architect.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

With prior written notice to the Owner's representative, the Architect may order minor changes in the Work that are consistent with the Contract Documents or Construction Documents and do not involve an adjustment in the Contract Sum or Guaranteed Maximum Price, or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Guaranteed Maximum Price, or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Guaranteed Maximum Price, or Contract Time, the Contractor waives any adjustment to the Contract Sum or Guaranteed Maximum Price, or extension of the Contract Time. The Contractor shall carry out such written orders promptly. Minor changes in the Work shall not include changes that involve the outward appearance of the structure, color schemes, floor plans, building materials, landscaping, or mechanical equipment.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Final Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the first business day after Contractor's receipt of the written Notice to Proceed. The Notice to Proceed shall not be issued by Architect until the Agreement (or Amendment, if Contractor is a Construction Manager at Risk) has been signed by the Contractor, approved by Owner's Board of Trustees, signed

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by the Owner's authorized representative, and Owner and Architect have received, and approved as to form, all required payment and performance bonds and insurance, in compliance with Article 11. Issuance of the Notice to Proceed shall not relieve the Contractor of its responsibility to comply with Article 11..

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8. The date of Final Completion is the date certified by the Architect in accordance with Paragraph 9.10. Unless otherwise agreed in writing by Owner, Contractor agrees that Final Completion shall occur not more than 30 days after the date of Substantial Completion.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor stipulates that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial and Final Completion within the Contract Time.

§ 8.2.4 The Contractor is subject to liquidated damages, as specified in the Agreement, if the Work is not completed by the date of Substantial Completion or the date of Final Completion.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by fire, governmental actions, or adverse weather conditions documented in accordance with Section 15.1.6.2; (4) by delay authorized in writing by the Owner; or (5) by other causes that the Contractor asserts, and the Architect and Owner determine, may justify delay, then the Contract Time may be extended for such reasonable time as the Architect and Owner may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Agreement does not permit the recovery of damages, including, without limitation, extended home office overhead expenses, general conditions, or other consequential damages, by the Contractor for delay or disruption or for extensions of time due to bad weather or acts of God. Contractor agrees that the only possible compensation for any delay is an extension of time.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. In the event that the Project is a Construction Management at Risk Project, the Contract Sum shall not exceed the Guaranteed Maximum Price.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices may be equitably adjusted by prior written agreement.

§ 9.2 Schedule of Values

§ 9.2.1 Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum or in the case of a Guaranteed Maximum Price, within 15 days after establishing the Guaranteed Maximum Price, to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as

a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The schedule of values shall be prepared in such a manner that each major item of work, whether done by Contractor's own forces or subcontracted, is shown as a single line item on AIA Documents G702 and G703, Application and Certificate for Payment and Continuation Sheet. If the Contractor is a Construction Manager at Risk, then the Contractor's fee and general conditions shall be specifically shown, and AIA Documents G702CMA and G703 shall be used.

§ 9.2.2 If the project is a Construction Manager at Risk project, in order to facilitate the review of Applications for Payment, the Schedule of Values shall be submitted on AIA Documents G702 and G703, and shall include the following:

- .1 Contractor's cost for Contractor's fee (if applicable) bonds and insurance, mobilization, or general conditions, etc. shall be listed as individual line items.
- .2 Contractor's costs for various construction items shall be detailed. For example, concrete work shall be subdivided into footings, grade beams, floor slabs, or paving, etc.
- .3 On major subcontracts, such as mechanical, electrical and plumbing, the schedule shall indicate line items and amounts in detail (for example: underground, major equipment, fixtures, installation fixtures, or start-up, etc.).
- .4 Costs for subcontract work shall be listed without any additional mark-up of Contractor's costs for overhead, profit, or supervision.
- .5 If payment for stored materials is requested prior to installation, then material and labor shall be listed as separate line items.
- .6 Contractor shall provide a report of actual versus projected reimbursable expenses (general conditions), updated monthly.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage.

§ 9.3.1.1 Contractor agrees that, for purposes of Texas Government Code Sections 2251.021 and 2251.042, receipt of the Application for Payment by the Architect shall not be construed as receipt of an invoice by the Owner. Contractor further agrees that Owner's receipt of the Certificate for Payment shall be construed as receipt of an invoice by the Owner, for purposes of Texas Government Code Sections 2251.021 and 2251.042.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor has not been invoiced by a Subcontractor or supplier, unless Contractor has self-performed the Work.

§ 9.3.1.3 Until Final Completion of the Work, the Owner shall withhold retainage as provided in the Contract Documents, except that Owner shall not pay amounts for which the Architect refuses to certify payment, or the Owner refuses to pay, as provided herein in Section 9.4.3 or 9.5, as amended. The retainage shall be paid with the Final Payment. *(Note: if more than 5% is retained, under Texas law, then the retainage must be placed in an interest-bearing account, and the contractor must be paid the interest earned on the retainage upon completion of the Work. Texas Government Code Section 2252.032).*

§ 9.3.2 Payments will be made on the basis of invoices for specific materials or equipment incorporated in the Work and specific materials or equipment (1) suitably stored at the site or (2) suitably stored at some off-site location, provided the following conditions are met for off-site storage:

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- .1 The location must be agreed to, in writing, by the Owner and Surety.
- .2 The location must be a bonded warehouse.
- .3 The Contractor's Surety must agree, in writing, to the amounts included in each Application for Payment.
- .4 The Contractor must bear the cost of the Owner's and Architect's expenses related to visiting the off-site storage area and reviewing the stored contents. Contractor acknowledges that Architect's time may be an Additional Service and shall compensate Architect directly for same upon request.
- .5 Payment shall not include any charges for overhead or profit on stored materials.
- .6 Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other documentation satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance (naming the Owner as insured and naming the specific materials or equipment stored and their location) and proof of delivery to the site for those materials and equipment stored off the site. Under no circumstances will the Owner reimburse the Contractor for down payments, deposits, or other advance payments for materials or equipment until the materials or equipment are delivered to Owner's site or the agreed-upon off-site storage. Failure to follow these procedures shall result in nonpayment for storage of or insurance on stored materials and equipment. Failure to follow these procedures shall also result in nonpayment of materials and equipment until said materials and equipment are incorporated into the Work.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work. Neither Contractor nor any of its materialmen, laborers or Subcontractors shall have any lien rights against the Owner's lands, building funds, materials or other property. No materialmen, laborers or Subcontractors of the Contractor shall have any enforceable rights against the Owner on this Contract. Materialmen, laborers and Subcontractors of the Contractor may have rights under any Payment Bond provided by the Contractor, but cannot look to the Owner for any help in enforcement of those rights. CONTRACTOR SHALL WAIVE, RELEASE, INDEMNIFY, AND HOLD OWNER HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTERESTS OR ENCUMBRANCES FILED BY THE CONTRACTOR, SUBCONTRACTORS, OR ANYONE CLAIMING BY, THROUGH, OR UNDER THE CONTRACTOR OR SUBCONTRACTOR FOR ITEMS COVERED BY PAYMENTS MADE BY THE OWNER TO CONTRACTOR.

§ 9.3.4 Contractor shall submit Applications for Payment electronically or, if requested by owner, in writing and in quadruplicate using AIA Documents G702 and G703 Application and Certificate of Payment (or G702CMA, if applicable) and Continuation Sheet. All blanks in the form must be completed and signatures of Contactor and Notary Public must be original on each form. Incomplete or inaccurate Applications for Payment shall be returned to the Contractor by the Architect for completion and/or correction. Owner shall have no responsibility for payment of same if the Application for Payment is incomplete or inaccurate.

§ 9.3.5 By signing each Application for Payment, the Contractor stipulates and certifies to the following: that the information presented is true, correct, accurate and complete; that the Contractor has made the necessary detailed examinations, audits, and arithmetic verifications; that the submitted Work has been completed to the extent represented in the Applications for Payment; that the materials and supplies identified in the Applications for Payment have been purchased, paid for, and received; that the subcontractors have been paid as identified in the Applications for Payment or that Contractor has been invoiced for same; that Contractor has made the necessary on-site inspections to confirm the accuracy of the Applications for Payment; that there are no known mechanics' or materialmen's liens outstanding at the date of the Application for Payment; that all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current Payment Application; that, except for such bills not paid but so included, there is no known basis for the filing of any mechanics' or materialmen's liens on the

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Work; that the Payment Application includes only Work self-performed by Contractor or for which Contractor has been invoiced; and that releases from all Subcontractors and materialmen have been obtained in such form as to constitute an effective release of lien under the laws of the State of Texas covering all Work performed and for which payment has been made by the Owner to the Contractor. Contractor understands that documents submitted to Owner become government documents under the laws of the State of Texas. Contractor further understands that falsification of Contractor's Application for Payment may constitute a violation of the penal laws of the State of Texas, including, but not limited to, Texas Penal Code Sections 32.46, 37.09, and 37.10, and may justify termination of Contractor's Contract with Owner. Contractor further understands and agrees that falsification of documents may entitle Owner to restitution as permitted by Texas law and these Contract Documents.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment carefully evaluate and review the Application for Payment and, when appropriate, return the Application for Payment to the Contractor as provided in Section 9.3.4. If the Application for Payment is complete, then the Architect shall sign and either (1) certify and issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) certify and issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing with a detailed statement of the Architect's reasons for withholding certification and disputing in part certification in accordance with Texas Government Code Section 2251.042(2)) and as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner in writing with a detailed statement of the Architect's reason for withholding certification in whole in accordance with Texas Government Code Section 2251.042(a) and as provided in Section 9.5.1.

Architect's written reasons for withholding certification shall be construed as the notice required by Texas Government Code Section 2251.042 *et seq.* Owner may not withhold from payments more than 110% of the disputed amount. Owner shall provide certifications of payment for any of the Owner's separate consultants or contractors on Architect's prior written request.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, that the Architect has observed the progress of the Work and determined that, in the Architect's professional opinion, the Work has progressed to the point indicated, and the quality of the Work is in accordance with the Contract Documents. Further, the issuance of the Certificate for Payment will constitute a representation by the Architect to the Owner that the Architect has carefully evaluated and certified that the amounts requested in the Application for Payment are valid and correct. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect in writing to the Owner. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data unless requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum. Examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's accountants or other representatives of the Owner acting in the sole interest of the Owner.

§ 9.4.3 The issuance of a Certificate for Payment shall constitute a recommendation to the Owner regarding the amount to be paid. This recommendation is not binding on the Owner if Owner knows of other reasons under the Contract Documents why payment should be withheld.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as

may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 repeated failure to carry out the Work in accordance with the Contract Documents; or
- .8 failure to submit a written plan indicating action by the Contractor to regain the time schedule for completion of Work within the Contract time.

§ 9.5.2 When the Contractor disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, the Contractor may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 Notwithstanding any provision contained within this Article, if the Work has not attained Substantial Completion or Final Completion by the required dates, subject to extensions of time allowed under the Contract Documents, then Architect may withhold any further Certificate for Payment from Contractor to the extent necessary to preserve sufficient funds to complete the construction of the Project and to cover liquidated damages. The Owner shall not be deemed in default by reason of withholding payment as provided for in Sections 9.3.4, 9.4.3, 9.5.1, or this Section.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment for undisputed amounts in the manner and within the time provided in the Contract Documents, and shall so notify the Architect. Owner shall notify Contractor within 21 days if Owner disputes the Architect's Certificate for Payment pursuant to Texas Government Code Section 2251.042 *et seq.*, listing the specific reasons for nonpayment. Payments to the Contractor shall not be construed as releasing the Contractor or its Surety from any obligations under the Contract Documents.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. In compliance with Texas Government Code Section 2251.022, the Contractor shall, within ten (10) days following receipt of payment from the Owner, pay all bills for labor and materials performed and furnished by others in connection with the Work, and shall, if requested, provide the Owner with evidence of such payment. Contractor shall include a provision in each of its subcontracts imposing the same payment obligations on its Subcontractors as are applicable to the Contractor hereunder, and if the Owner so requests, shall provide to the Owner copies of such Subcontractor payments. If the Contractor has failed to make payment promptly to the Contractor's Subcontractors or for materials or labor used in the Work for which the Owner has made payment to the Contractor, then the Owner shall be entitled to withhold payment to the Contractor in part or in whole to the extent necessary to protect the Owner. This Section is subject to the provisions of Texas Business and Commerce Code Chapter 56.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers

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to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier. Any action taken by the Owner to require the Contractor to pay a Subcontractor shall not impose any liability on Owner to the Subcontractor or supplier.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision. Payments received by the Contractor from the Owner for Work properly performed by Subcontractors, or materials properly provided by suppliers, shall be held in trust by the Contractor for the benefit of those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor. Texas Property Code § 162.001.

§ 9.6.8 The Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.6.9 Contractor shall not withhold as a retainage a greater percentage from Subcontractors or materialmen than the percentage that Owner withheld as retainage from payments to Contractor.

§ 9.7 Failure of Payment

§ 9.7.1 Pursuant to Texas Government Code Section 2251.051, if the Owner does not pay the Contractor any payment certified by the Architect, which is undisputed, due, and owing after the date the payment is due under the Contract Documents then the Contractor, upon ten (10) additional days' written notice to the Owner and Architect that payment has not been made and the Contractor intends to suspend performance for nonpayment, may stop the Work until payment of the undisputed amount owing has been received. If the Owner provides written notice to the Contractor that: 1) payment has been made; or 2) a bona fide dispute for payment exists, listing the specific reasons for nonpayment, then Contractor shall be liable for damages resulting from suspension of the Work. If a reason specified is that labor, services, or materials provided by the Contractor are not provided in compliance with the Contract Documents, then the Contractor shall be provided a reasonable opportunity to cure the noncompliance or to compensate Owner for any failure to cure the noncompliance. No amount shall be added to the Contract Sum as a result of a dispute between Owner and Contractor unless and until such dispute is resolved in Contractor's favor.

§ 9.7.2 If the Architect does not issue a Certificate for Payment within seven days after receipt of the Contractor's Application for Payment, through no fault of the Contractor, then the Contractor shall provide written notice to the Owner, and the Owner shall have fourteen (14) business days after receipt of such notice to provide or obtain a Certificate for Payment. If Owner fails to provide or obtain the Certificate for Payment, then the Contractor may, upon fourteen (14) additional business days' written notice to the Owner and Architect, stop the Work until payment of the undisputed amount owing has been received.

§ 9.7.3 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, then such payment shall be made promptly upon demand by the Owner. Notwithstanding anything contained in the Contract Documents to the contrary, if the Contractor fails to promptly make any payment due to Owner, pursuant to the Contract, or if the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, then the Owner shall have an absolute right to offset such amount against the Contract Sum and, in the Owner's sole discretion and without waiving any other remedies, may elect either to:

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- .1 deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due to Contractor from the Owner, or
- .2 issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use; all Project systems included in the Work or designated portion thereof have been successfully tested and are fully operational; all required governmental inspections and certifications required of the Work have been made, approved and posted; designated initial instruction of Owner's personnel in the operation of Project systems has been completed; and all the required finishes set out in the Construction Documents are in place. The only remaining Work shall be minor in nature so that the Owner can occupy the Work or the applicable portion of the Work for all of its intended purposes on that date; and the completion of the Work by the Contractor will not materially interfere with or hamper Owner's normal school operations or other intended use. As a further condition of a determination of Substantial Completion, the Contractor shall certify that all remaining Work shall be completed within 30 days. Contractor shall complete Owner's or the State's Substantial Completion Certificate. The payment certification shall state the date of Substantial Completion, the punch list provided by the Contractor to address all remaining areas of the Project, and all known Owner-accepted non-conforming work. Required certifications of work requested or required by the Owner shall be limited to work required under the Contract Documents.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, then the Architect shall so notify the Contractor and Owner in writing, and the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion. Except with the consent of the Owner, the Architect shall perform no more than five inspections to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner shall be entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare, sign and issue Owner's Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Final Completion of the Work or designated portion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when agreed to by the Owner and the Contractor in writing, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided that the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work resulting from such occupancy, use or installation, and property and liability insurance. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of

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the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect. Contractor agrees that the Owner may place and install as much equipment and furnishings as is possible before completion or partial completion of portions of the Work.

§ 9.9.2 Immediately prior to such partial occupancy, use, or installation, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon in writing, partial occupancy or use of a portion or portions of the Work or installation of furnishings and equipment shall not constitute acceptance of Work not complying with the requirements of the Contract Documents, nor shall it constitute evidence of Substantial Completion or Final Completion.

§ 9.9.4 In the event that Owner takes partial occupancy or installs furnishings and equipment prior to Substantial Completion of the Project, Contractor shall obtain an endorsement to Contractor's Builder's Risk Policy to provide extended coverage for partial occupancy if Contractor's Builder's Risk Coverage required by Article 11 would not otherwise provide such coverage.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly prepare, sign, and issue Owner's Certificate of Final Completion and a final Certificate for Payment certifying to the Owner that on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance, including all retainages, found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. Final payments shall be made by the Owner in accordance with Owner's regular schedule for payments.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) using AIA Document G706, an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) evidence satisfactory to Owner that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) using AIA Document G707, consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) except for amounts previously withheld by the Owner, other data establishing payment or satisfaction of obligations, such as AIA Document G706A, notarized subcontractor's lien releases, receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees. In addition, the following items must be completed and received by the Owner before Final Payment will be due:

- .1 Written certifications required by Sections 10.5, 10.6, and 10.7;
- .2 Final list of subcontractors (AIA Document G705);
- .3 Contractor's certification in Texas Education Agency's Certification of Project Compliance;
- .4 Contractor's warranties, organized as required elsewhere in the Contract Documents;
- .5 Maintenance and Instruction Manuals;

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- .6 Owner's Final Completion Certificate; and
- .7 "As-constructed record drawings". At the completion of the Project, the Contractor shall submit one complete set of "as-constructed" record drawings, with all changes made during construction, including concealed mechanical, electrical, and plumbing items. The Contractor shall submit these as electronic, sepi, or other acceptable medium, in the discretion of the Owner. The "as-constructed" record drawings shall delete the seal of the Architect and/or the Engineer and any reference to those firms providing professional services to the Owner, except for historical or reference purposes.

Documents identified as affidavits must be notarized. All manuals will contain an index listing the information submitted. The index section will be divided and identified by tabbing each section as listed in the index. Upon request, the Architect will furnish the Contractor with blank copies of the forms listed above. Final payment shall be paid by the Owner to the Contractor within thirty (30) days after Owner's Board of Trustees has voted to accept the Work and approve Final Payment. Owner, Architect, Contractor, and prime subcontractors, if applicable, shall certify compliance with all applicable school facility standards required in 19 TAC Section 61.1040 subsections (d) and (g)-(k). 19 TAC Section 61.1040(f).

Per 19 TAC Section 61.1040(6)(f)(C), Contractor shall certify the following:

- (i) Process certifications. To ensure construction quality and performance of contract terms, the Contractor and prime subcontractors, if applicable, shall certify compliance that the Project has been built in conformance with the contract documents.
- (ii) Certifications related to construction quality standards under subsection (j) of 19 TAC Section 61.1040.

To ensure compliance with construction quality standards, the Contractor and prime subcontractors, if applicable, shall certify compliance at the completion of a capital improvement project that the Project has been built in conformance with the contract terms and performance standards specified by the Contract Documents for the Contractor and for any of its subcontractors or subconsultants of any tier, which shall include certification of compliance with any subsequent change order documents approved by the Owner and Architect.

Where a third-party code compliance officer is required by subsection (j) of 19 TAC Section 61.1040 to ensure that a third-party code compliance officer does not find any violations of the provisions of the required construction codes identified in subsection (j)(1) of 19 TAC Section 61.1040 that are not enforced by a state or local authority having jurisdiction, Owner shall require that a third-party code compliance officer issue a third-party certificate of occupancy. Where a local authority having jurisdiction enforces some of the required construction codes, a third-party code compliance officer shall not issue a third-party certificate of occupancy until either the local authority having jurisdiction has issued a certificate of occupancy or the local authority having jurisdiction indicates in writing to the third-party code compliance officer that the local authority having jurisdiction does not issue certificates of occupancy.

Certifications related to safety and security standards under subsection (k) of 19 TAC Section 61.1040. To provide a safe and secure environment, the Contractor and prime subcontractors, if applicable, shall certify compliance that the Project has been built in reasonable accordance with the safety and security directives provided by the school district and reflected in the Contract Documents prepared by the Architect.

Special provisions for a Construction Manager-Agent. For projects that use the construction manager agent contracting method established in Texas Government Code Chapter 2269, Subchapter E, the Construction Manager Agent and each construction prime contractor must provide certification in accordance with clause (i) of 19 TAC Section 61.1040, and each shall certify the scope of work for which they are contractually responsible.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If

the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, and it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall

(Paragraphs deleted)

not constitute a waiver of any Claims by the Owner.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously asserted pursuant to Article 15 and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract and shall conform to all provisions of the "Manual of Accident Prevention in Construction", published by the Associated General Contractors of America, Inc., latest edition, and the Contractor further agrees to fully comply with all safety standards required by the Occupational Safety and Health Administration ("OSHA") 29 USC Section 651 *et seq.*, and all amendments thereto. However, the Contractor's duties herein shall not relieve any Subcontractor or any other person or entity, including any person or entity required to comply with all applicable federal, state and local laws, rules, regulations, and ordinances, from the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. Contractor shall provide reasonable fall protection safeguards and provide approved fall protection safety equipment for use by all exposed Contractor employees.

§ 10.1.1 Contractor's employees, agents, Subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, shall not perform any service for Owner while under the influence of any amount of alcohol or any illegal controlled substance; or use, possess, distribute, or sell alcoholic beverages while on Owner's premises. No person shall: use, possess, distribute, or sell illegal or nonprescribed controlled drugs or drug paraphernalia; misuse legitimate prescription or over-the-counter drugs; or act in contravention of warnings on medications while performing the Work or while on Owner's premises. Contractor's employees, agents, Subcontractors, or anyone directly or indirectly employed by any of them, shall not distribute or sell alcohol or drugs of any kind to Owner's students or staff, regardless of the location of the distribution or sale.

§ 10.1.2 Contractor will comply with all applicable federal, state, and local drug and alcohol-related laws and regulations (e.g., Department of Transportation regulations, Drug-Free Workplace Act). Contractor has adopted or will adopt its own policy to assure a drug-free and alcohol-free workplace while on Owner's premises or performing the Work. Contractor will remove any of its employees, agents, subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, from performing the Work any time there is suspicion of alcohol and/or drug use, possession, or impairment involving such person, and at any time an incident occurs where drug or alcohol use could have been a contributing factor. Owner has the right to require Contractor to remove any person from performing the Work any time cause exists to suspect alcohol or drug use. In such cases, the person so removed may only be considered for return to work after the Contractor certifies, as a result of a for-cause test, conducted immediately following removal, that said person was in compliance with this Contract. Contractor will not use any person to perform the Work who fails or refuses to take, or tests positive on, any for-cause alcohol or drug test.

§ 10.1.3 Owner has also banned the presence of all weapons on the Project site, whether or not the owner thereof has a permit for a weapon, and Contractor agrees that Contractor's representatives, employees, agents, and subcontractors will abide by same. Weapons may only be permitted in Owner's parking lots if weapons are locked in personal vehicles in Owner's parking lot.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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- .1 employees on the Work, school personnel, students, and other persons on Owner's premises, and other persons who may be affected thereby, including the installation of fencing between the Work site and any connecting or adjacent property of Owner, when required by Texas Education Code Section 22.08341;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as other buildings, and other contents, fencing, trees, shrubs, lawns, walks, athletic fields, facilities, and tracks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including installing fencing, posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards. The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any personal or real property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor.

§ 10.2.4 When use or storage of hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel and shall only conduct such activities after giving reasonable advance written notice of the presence or use of such materials, equipment, or methods to Owner and Architect. The storage of explosives on Owner's property is prohibited. The use of explosive materials on Owner's property is prohibited unless expressly approved in advance in writing by Owner and Architect.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 The Contractor shall do all things reasonably necessary to protect the Owner's premises and all persons from damage and injury when all or a portion of the Work is suspended for any reason.

§ 10.2.9 The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work which cause death, bodily injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious bodily injuries, or serious property damages are caused, then the accident shall be reported immediately by any means necessary to give actual notice to the Owner's representative and the Architect.

§ 10.2.10 Contractor's obligations under Section 10.2 as to each portion of the Project shall continue until Owner takes possession of and occupies that portion of the Project.

(Paragraphs deleted)

§ 10.2.11 Injury or Damage to Person or Property

If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or

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not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter. Contractor understands and acknowledges that, under Texas law, Owner has sovereign and/or governmental immunity as to all torts except as to the Owner's permitted use or operation of Owner's motor vehicles, subject to any defenses under law.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify in writing the Owner and Architect of the condition. In the event the Contractor encounters polychlorinated biphenyl (PCB), and the specifications require the PCB's removal, the Contractor shall remove the PCB and store it in marked containers at the jobsite provided by the Owner. If PCBs are found which are leaking, then Contractor shall stop work on the affected fixture and shall contact Owner for removal and disposal of the leaking PCBs.

§ 10.3.2 Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contractor may be entitled to an equitable adjustment regarding the Date of Substantial Completion and/or Final Completion.

§ 10.3.3 IF CONTRACTOR IMPORTS HAZARDOUS MATERIALS ONTO THE PROJECT SITE, THEN CONTRACTOR HEREBY INDEMNIFIES AND HOLDS HARMLESS THE OWNER, ITS CONSULTANTS, TRUSTEES, OFFICERS, AGENTS AND EMPLOYEES, AGAINST ANY CLAIMS ARISING OUT OF OR RELATED TO SUCH IMPORTATION, INCLUDING BUT NOT LIMITED TO COSTS AND EXPENSES THE OWNER INCURS FOR REMEDIATION OF A MATERIAL OR SUBSTANCE THE CONTRACTOR BRINGS TO THE SITE, AS PROVIDED FOR IN SUBPARAGRAPH 3.18.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site.

§ 10.3.5 *[Intentionally deleted.]*

§ 10.3.6 *[Intentionally deleted.]*

§ 10.4 Emergencies

(Paragraph deleted)

§ 10.4.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss.

§ 10.4.2 The performance of the foregoing services by the Contractor shall not relieve the subcontractors of their responsibility for the safety of persons and property and for compliance with all federal, state and local statutes, rules, regulations and orders of any governmental authority applicable to the conduct of the Work.

§ 10.5 ASBESTOS OR ASBESTOS-CONTAINING MATERIALS

§ 10.5.1 Contractor shall submit to the Architect a written certification addressed to the Owner that all materials used in the construction of this Project contain less than 0.10% by weight of asbestos and for which it can be demonstrated that, under reasonably foreseeable job site conditions, will not release asbestos fibers in excess of 0.1 fibers per cubic

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centimeter. The written certification shall further state that, should asbestos fibers be found at this Project in concentrations greater than 0.1 fibers per cubic centimeter, then Contractor shall be responsible for determining which materials contain asbestos fibers and shall take all necessary corrective action to remove those materials from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor.

§ 10.5.2 Final Payment shall not be made until this written certification has been received.

§ 10.6 LEAD-FREE MATERIAL IN POTABLE WATER SYSTEM

§ 10.6.1 Prior to payment of retainage and final payment, the Contractor and each subcontractor involved with the potable water system shall furnish a written certification that the potable water system is "lead-free".

§ 10.6.2 The written certification shall further state that should lead be found in the potable water system built under this Project, then Contractor shall be responsible for determining which materials contain lead and shall take all necessary corrective action to remove lead from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor.

§ 10.7 HAZARDOUS MATERIALS CERTIFICATION

The Contractor shall provide written certification that no materials used in the Work contain lead or asbestos materials in them in excess of amounts allowed by federal, state or local standards, laws, codes, rules and regulations; the Federal Environmental Protection Agency (EPA) standards; and/or the Federal Occupational Safety and Health Administration (OSHA) standards, whichever is most restrictive. The Contractor shall provide this written certification as part of submittals under the Section in the Project Manual related to Contract Closeout.

ARTICLE 11 INSURANCE AND BONDS

§ 11.0.1 No Work will be commenced, and no equipment or materials can be shipped, until all requirements of this Article have been satisfied, satisfactory evidence of insurance has been provided, and all insurance is in full force and effect. Contractor shall notify Owner and Architect in writing of any proposed nonconformity with these requirements, and shall notify Owner and Architect in writing of any insurance changes which occur during the terms required under the Contract Documents. Any deviation from these requirements can only be approved by Owner's Board of Trustees. Any nonconformity may be grounds for termination or modification of the Contract. To the extent that Contractor is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Contractor shall provide written notice to Owner's Board of Trustees. Said lack of insurance may then be grounds for termination or modification of this Agreement.

§ 11.0.2 Satisfactory evidence of insurance required by this Article shall be provided to Owner and Architect not later than five business days after execution of the Contract by Owner. Satisfactory evidence shall include copies of all required insurance policies, declarations, and endorsements themselves. In addition, Contractor shall also provide a duly-executed ACORD Form 25 Certificate of Liability Insurance naming Owner as a certificate holder and additional insured (except as noted in Section 11.0.4) and attaching all endorsements required herein. The Contractor shall furnish Owner all insurance amendments, renewals, notices, cancellations, and additional endorsements, as they are provided to Contractor.

§ 11.0.3 All insurance required herein shall be obtained from a company licensed to do business in the State of Texas by the Texas Department of Insurance, and shall be underwritten by a company rated not less than "A-" X in A.M. Best's Key Rating Guide, Property-Casualty, according to the latest posted ratings available on A.M. Best's website, www.ambest.com, and that permits waivers of subrogation.

§ 11.0.4 All insurance required herein shall name the Owner, its officers, employees, representatives, or agents, as an additional insured, except Contractor's Worker's Compensation insurance.

§ 11.0.5 All insurance required herein shall, by endorsement, be primary and non-contributory insurance with respect to the Owner, its officers, employees, representatives, or agents. All insurance shall be written on an occurrence basis, if available, and shall contain a waiver of subrogation in favor of Owner as provided for in Section 11.3.

§ 11.0.6 Any failure of Contractor to comply with the reporting provisions of the policies shall not affect the coverage

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provided to the Owner, its officers, employees, representatives, or agents.

§ 11.0.7 All workers on the Project must be covered by the required insurance policies of the Contractor or a Subcontractor.

§ 11.0.8 Nothing contained in this Article shall limit or waive Contractor's legal or contractual responsibilities to Owner or others.

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor and the Contractor's Subcontractors shall purchase and maintain such insurance as will protect them and the Owner from claims that may arise out of, or result from, the Contractor's operations under the Contract, whether such operations be by Contractor or by any Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, at a minimum, of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this Section 11.1 in the Agreement, or elsewhere in the Contract Documents. Such insurance shall include the following:

- .1 Claims under workers' compensation, disability benefit, and other similar employee benefit acts that are applicable to the Work to be performed, including private entities performing work at the site, and exempt from the coverage on account of number of employees or occupation, which entities shall maintain voluntary compensation coverage at the same limits specified for mandatory coverage for the duration of the Project (see Exhibit A);
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person, or property damage arising out of ownership, maintenance, or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations;
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under the Contract Documents, including under Section 3.18; and
- .9 Claims for damages to the Work itself, through builder's risk insurance, pursuant to AIA 101-2017, Exhibit A.

§ 11.1.2 [Intentionally deleted.]

§ 11.1.2.1 The Contractor shall furnish separate payment and performance bonds covering faithful performance of the Contract and payment of obligations arising thereunder, each bond to be in a total amount equal to 100% of the Contract Sum or Guaranteed Maximum Price, if the Project is a Construction Manager at Risk project, whichever is applicable. Provided, however, no limitation herein shall limit Contractor's liability under the Contract Documents. Except as provided below, such bond shall be furnished to Owner before any work begins and not later than five business days after execution of the Contract by Owner. (If the Guaranteed Maximum Price is not known at the time that a Construction Manager at Risk contract is awarded, then the sum of the payment and performance bonds must each be in an amount equal to the Project budget. The Construction Manager at Risk shall deliver the bonds not later than the tenth day after the date the Construction Manager at Risk executes the Contract, unless the Construction Manager at Risk furnished a bid bond or other financial security acceptable to the Owner to the District to ensure that the Construction Manager will furnish the required payment and performance bonds when the Guaranteed Maximum

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Price is established.) All bonds shall be issued by a surety company licensed, listed and authorized to issue bonds in the State of Texas by the Texas Department of Insurance, and shall fully comply with Texas Insurance Code Section 3503.001 *et seq.* and Texas Government Code Chapter 2253, or their successors. The surety company shall have a rating of not less than "A-" X according to the latest posted ratings on the A.M. Best website, www.ambest.com. The surety company shall provide, if requested, information on bonding capacity and other projects under coverage and shall provide proof to establish adequate financial capacity for this Project. Should the bond amount be in excess of ten percent (10%) of the surety company's capital and surplus, then the surety company issuing the bond shall certify that the surety company has acquired reinsurance, in a form and amount acceptable to the Owner, to reinsure the portion of the risk that exceeds ten percent (10%) of the surety company's capital and surplus with one or more reinsurers who are duly authorized and admitted to do business in Texas and that amount reinsured by a reinsurer does not exceed ten percent (10%) of the reinsurer's capital and surplus. Contractor shall immediately notify the Owner and Architect in writing if there is any change in: the rating; insolvency or receivership in any State; bankruptcy; right to do business in the State; or status of Contractor's sureties at any time until Final Completion.

§ 11.1.2.2 The Contractor shall deliver copies of the required bonds to the Owner and Architect not later than five business days after execution of the Contract by Owner. All bonds will be reviewed by the Architect for compliance with the Contract Documents. In the event that the Architect has any questions concerning the sufficiency of the bonds, the bonds will be referred to the Owner or the Owner's Representative with Architect's recommendation.

§ 11.1.2.3 All bonds shall be originals. The Contractor shall require the attorney-in-fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the power-of-attorney. The name, address, and telephone number of a contact person for the bonding company shall be provided.

§ 11.1.2.4 Bonds shall guarantee the faithful performance of all of the covenants, stipulations, and agreements of the Contract. Bonds shall be signed by an agent, resident in the State of Texas. If at any time during the continuance of the Contract, the Owner determines that the Contractor is unable to complete the Work in accordance with the Contract Documents, any of the Contractor's bonds become insufficient, the surety becomes insolvent, or the surety's rating drops below the required level, then the Owner shall have the right to require from the Contractor additional and sufficient sureties or other security acceptable to the Owner, which the Contractor shall furnish to the satisfaction of the Owner within ten (10) days after notice to do so. These contractual remedies are in addition to all remedies available by law. In default thereof, all payment or money due to the Contractor may be withheld until the Contractor provides additional surety or security.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor knows or should know of an impending or actual cancellation of any insurance required by the Contract Documents, the Contractor shall provide written notice to the Owner of such impending or actual cancellation. Upon receipt of written notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of written notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage. At least 30 calendar days prior to the date of expiration of any policy required by Section 11.1, Contractor shall provide Owner written notice of the impending expiration.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall be responsible for purchasing and maintaining property and casualty insurance no later than the date of Substantial Completion and such date of Owner responsibility shall be documented in the Certificate of Substantial Completion. If Owner occupies or uses any completed or partially-completed portion of the Work at any stage, then such occupancy or use must be consented to by the insurer and authorized by public authorities having jurisdiction over the Work. To the extent of overlap between Owner's property insurance and Contractor's builder's risk insurance, if any, Contractor's builder's risk shall be primary and non-contributory.

§ 11.2.2 Partial occupancy or use shall not commence until the insurance company providing this insurance has consented in writing, by endorsement or otherwise. Owner and Contractor shall take reasonable steps to obtain such

consent and shall take no action without written mutual consent that would cause cancellation, lapse, or reduction of this insurance.

§ 11.2.3 [*Intentionally deleted.*]

§ 11.3 Waivers of Subrogation

§ 11.3.1 All insurance required herein shall contain a waiver of subrogation in favor of Owner on all claims arising out of the Project. The policies shall provide such waivers of subrogation. The Contractor shall require similar written waivers in favor of the Owner, from the subcontractors and sub-subcontractors. The policies of insurance purchased and maintained by Contractor pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation.

§ 11.3.2 The Owner, as fiduciary, shall have power to adjust and settle any loss arising out of the Work with insurers, regardless of the purchaser of the insurance policy. The Contractor upon receipt of proceeds shall, as a fiduciary, pay all subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements shall require subcontractors to make payment to their sub-subcontractors in similar manner. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor with the insurance proceeds upon issuance of a Notice to Proceed from the Owner.

§ 11.3.3 Partial occupancy or use shall not commence until the insurance company providing this insurance has consented in writing, by endorsement or otherwise. Owner and Contractor shall take reasonable steps to obtain such consent and shall take no action without written mutual consent that would cause cancellation, lapse, or reduction of this insurance.

(Paragraphs deleted)

§ 11.4 Loss of Use and Business Interruption Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor and Architect of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor and Architect shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor and/or the Architect do not object, the Owner shall settle the loss and the Contractor and Architect shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor and/or Architect timely object to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's or Owner's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect or Owner, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

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§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or Work failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.1.1 The Owner may make emergency repairs to the Work or take such other measures necessary under the circumstances, if the Contractor does not respond within 24 hours of a written notice by Owner of defect or nonconforming Work. Contractor shall be responsible to Owner for this cost if the reason for the repairs is attributable to the Contractor. If payments then or thereafter due to the Contractor are not sufficient to cover such costs, then the Contractor shall pay the difference to the Owner on demand.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such written notice promptly after discovery of the condition. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of written notice from the Owner or Architect, the Owner may correct the Work as provided in 12.2.2.1.1. Nothing contained in this Section 12.2 is intended to limit or modify any obligations under the law or under the Contract Documents, including any warranty obligations, expressed or implied.

§ 12.2.2.1.1 If the Contractor fails to perform the corrective Work, then Owner may perform corrective Work, at Contractor's cost. If Owner performs corrective Work, then Owner may also remove nonconforming Work and store the salvageable materials or equipment at Contractor's expense. If the Contractor does not pay all costs incurred by Owner within ten (10) days after written notice, then Owner may, upon ten (10) additional days' written notice, sell the removed materials and equipment in accordance with Owner's policies, and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, then the Contractor shall pay the difference to the Owner.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner, but only as to the corrected Work.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction by the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for

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correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.2.6 Contractor shall replace, repair, or restore any parts of the Project or furniture, fixtures, equipment, or other items placed therein (whether by Owner or any other party) that are destroyed or damaged by any such parts of the Work that do not conform to the requirements of the Contract Documents or by defects in the Work.

§ 12.2.7 The provisions of this Section 12.2 apply to Work done by Subcontractors of the Contractor as well as Work done directly by employees of the Contractor. The provision for this Section 12.2.7 shall not apply to corrective work attributable solely to the acts or omissions of any separate contractor of Owner (unless Contractor is acting in such capacities). The cost to Contractor of performing any of its obligations under this Section 12.2.7 to the extent not covered by insurance shall be borne by Contractor.

§ 12.2.8 If, however, Owner and Contractor deem it inexpedient to require the correction of Work damaged or not done in accordance with the Contract Documents, then an equitable deduction from the Contract Sum shall be made by written agreement between Contractor and Owner. Until such settlement, Owner may withhold such sums as Owner deems just and reasonable from moneys, if any, due Contractor. The settlement shall not be unreasonably delayed by the Owner and the amount of money withheld shall be based on estimated actual cost of the correction to Owner.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the laws of State of Texas, and any litigation shall be conducted in state district court. Mandatory and exclusive venue for any disputes shall be in the county in which the Project is located.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract, in whole or in part, without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The invalidity of any part or provision of the Contract Documents shall not impair or affect in any manner whatsoever the validity, enforceability, or effect of the remainder of the Contract Documents.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner or Architect shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made at appropriate times as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals which shall be included

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in the Cost of the Work. Provided, however, per Texas Government Code Chapter 2269, Owner shall bear all costs of construction materials engineering, testing and inspection services, and the verification testing services necessary for acceptance of the facility by the Owner. The Contractor shall give the Architect timely written notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Owner shall provide or contract for such additional testing, inspection, or approval. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense. Architect, Owner and Contractor shall cooperate for the timely scheduling of such tests and inspections.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including, but not limited to, those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect, with a copy to the Owner.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Undisputed payments overdue and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate as provided by Texas Government Code Section 2251.025. Any such payment shall be deemed overdue on the thirty-first day after Owner received Architect's invoice or Contractor's completed Application for Payment for the Architect, whichever is later, if Owner's Board of Trustees meets more than once per month. Any such payment shall be deemed overdue on the forty-sixth day after Owner receives Architect's invoice or Contractor's Certificate for Payment from the Architect, if Owner's Board of Trustees meets once a month or less frequently. No interest shall be due on sums properly retained by Owner, except as provided by law, or on disputed sums unpaid by Owner.

§ 13.6 EQUAL OPPORTUNITY IN EMPLOYMENT

§ 13.6.1 The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, disability, sex, or national origin, or any class otherwise protected by District policy or law. The Contractor agrees to post in conspicuous places, available to employees and applicants, notices setting forth the Contractor's nondiscrimination policies.

§ 13.6.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, age, disability, sex, national origin, or any class otherwise protected by District policy or law.

§ 13.7 RECORDS

§ 13.7.1 Contractor shall at all times through the date of Final Completion, maintain Job Records, including, but not limited to, invoices, Construction Documents, payment records, payroll records, daily reports, diaries, logs, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, other financial data and job meeting minutes applicable to the Project, in a manner which maintains the integrity of the documents. Job Records must be retained by Contractor for at least twelve (12) years after the date of Final Completion of the Project. Within 10 days of Owner's request, Contractor shall make such Job Records available for inspection, copying and auditing by the Owner, Architect or their respective representatives, at Owner's central office.

§ 13.7.2 If Contractor is a Construction Manager at Risk, then Contractor shall also maintain, in accordance with the provisions of Section 13.7.1, the following: subcontract files, including proposals of successful and unsuccessful

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bidders, bid recaps and subcontractor payments; original estimates; estimating work sheets; general ledger entries detailing cash and trade discounts received; insurance rebates and dividends; and any other supporting evidence deemed necessary by the Owner to substantiate charges related to the Contract.

§ 13.7.3 Contractor shall keep a full and detailed financial accounting system and shall exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control systems shall be satisfactory to the Owner and shall be subject to the provisions of Section 13.7.1.

§ 13.7.4 Contractor shall keep all Contract Documents related to the Project, subject to the provisions of Section 13.79.1, provided, however, Contractor shall not destroy said documents until Contractor has confirmed with Owner in writing that Owner has obtained a copy of all as-built drawings.

§ 13.7.5 In the event that an audit by the Owner reveals any errors/overpayments by the Owner, then the Contractor shall refund to the Owner the full amount of such overpayments within thirty (30) days of such audit findings, or the Owner, at its option, reserves the right to deduct such amounts owed to the Owner from any payments due to the Contractor.

§ 13.8 PROPRIETARY INTERESTS AND CONFIDENTIAL INFORMATION

§ 13.8.1 Neither Architect nor Contractor shall use the image or likeness of Owner's Project or Owner's official logo or emblem and any other trademark, service mark, or copyrighted or otherwise protected information of Owner, without Owner's prior written consent. Contractor and Architect shall not have any authority to advertise or claim that Owner endorses Architect or Contractor's services, without Owner's prior written consent.

§ 13.8.2 Neither Architect nor Contractor shall disclose any confidential information of Owner which comes into the possession of Architect or Contractor at any time during the Project, including but not limited to: pending real estate purchases, exchange, lease, or value; information related to litigation; the location and deployment of security devices; security access codes; student likenesses; student record information; employee information; or any other information deemed confidential by law.

§ 13.8.3 The parties acknowledge that, as a public entity in the State of Texas, Owner is subject to, and must comply with, the provisions of the Texas Public Information Act, Texas Government Code Section 552.001, *et seq.*, and the Texas Open Meetings Act, Texas Government Code, Section 551.001, *et seq.*

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of ninety (90) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped; or
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment of undisputed sums due on an approved Certificate for Payment within the time stated in the Contract Documents.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, then, after the applicable time period the Contractor may, upon ten (10) days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination.

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§ 14.1.4 If the Work is stopped for a period of 90 (ninety) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon twenty (20) additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or Suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or Suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents;
- .5 fails to furnish the Owner, upon written request, with assurances satisfactory to the Owner, evidencing the Contractor's ability to complete the Work in compliance with all the requirements of the Contract Documents;
- .6 engages in serious or repeated worker misconduct in violation of Article 3.3.2;
- .7 engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies; or
- .8 fails to proceed continuously and diligently with the construction and completion of the Work, except as permitted under the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and subject to any prior rights of the surety, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished. Any further payment shall be limited to amounts earned to the date of termination.

§ 14.2.4 If the costs of finishing the Work, including compensation for the Architects' services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, exceed the unpaid balance of the Contract Sum or Guaranteed Maximum Price, (if the Project is a Construction Manager at Risk project), then the Contractor and/or its Surety shall pay the difference to the Owner. The amount to be paid to the Owner shall be certified by Architect upon application. The obligation for payment shall survive termination of the Contract.

§ 14.2.5 The parties hereby agree that: 1) if an order for relief is entered on behalf of the Contractor, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Contractor makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; or 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Contractor's performance of the Contract Documents. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Contractor or its successor in interest adequate assurance of future performance in accordance with the terms and conditions of the Contract Documents. Failure to comply with such

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request within ten (10) days of delivery of the request shall entitle Owner to terminate the Contract and to the accompanying rights set forth in Subparagraphs 14.2.1 through 14.2.6. In all events, pending receipt of adequate assurance of performance and actual performance in accordance with the Contract Documents, Owner shall be entitled to proceed with the Work with Owner's own forces or with other Contractors on a time and material or other appropriate basis, the cost of which will be charged against the Contract Sum.

§ 14.2.6 As required by Texas Government Code Chapter 2253, if a Performance Bond has been furnished and the Contractor is declared by the Owner to be in default under the Contract, then the Surety shall promptly perform the Work, in full accordance with the plans, specifications and Contract Documents. Unless otherwise agreed in writing between the Surety and the Owner, the Surety shall complete the Work by the Surety entering into a Contract acceptable to Owner, with a Contractor acceptable to Owner, and shall obtain new Payment and Performance Bonds as required by law.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum, Guaranteed Maximum Price, and Contract Time may be adjusted, by mutual written agreement, for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Furthermore, if this Contract is a multi-year contract funded through Owner's current general funds that are not bond funds, then the Owner's Board of Trustees has the right to not appropriate adequate monies for the next fiscal year and to terminate this Contract at the end of each fiscal year during the term of the Contract, without the Owner incurring any further liability to Contractor as a result of such termination.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination. Such payment shall not cause the Contract Sum, or Guaranteed Maximum Price, if the Project is a Construction Manager at Risk Project, to be exceeded. Such payment shall not include overhead and profit for Work not executed.

§ 14.4.4 Upon determination by a Court of competent jurisdiction that termination of the Contractor pursuant to Section 14.2 was wrongful, such termination will be deemed converted to a termination for convenience pursuant to Section 14.4, and Contractor's remedy for wrongful termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Section 14.4.

ARTICLE 15 CLAIMS AND DISPUTES OF CONTRACTOR § 15.1 Claims

(Paragraph deleted)

§ 15.1.1 Definition

A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of additional compensation under the Contract Documents, interpretation of the Contract Document terms, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor.

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This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

(Paragraphs deleted)

§ 15.1.2 Time Limits on Litigation

The Owner and Contractor shall commence all litigation whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the dispute resolution method selected in the Agreement and within the period specified by applicable law, but in the case of the Owner, not more than 8 years after the date of Final Completion of the Work, unless extended in accordance with Texas Civil Practice and Remedies Code Section 16.009. The Owner and Contractor waive all causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by the Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Architect. Claims by Contractor under this Section 15.1.3.1 must be initiated within 21 calendar days after occurrence of the event giving rise to such Claim or within 21 calendar days after the Contractor first knew or should have known the condition giving rise to the Claim, whichever is earlier. Claims must be initiated by written notice titled "Notice of Claim" ("Notice") and sent to the Architect and Owner's designated representatives. The Notice shall clearly set out the specific matter of complaint, and the impact which may occur or have occurred as a result thereof, to the extent that the impact can be assessed at the time of the Notice. If the impact cannot be assessed as of the date of the Notice, then the Notice shall be amended at the earliest date that is reasonably possible. It is imperative that Owner receive timely specific Notice of any potential problem identified by Contractor in order that the problem can be mitigated or resolved promptly. Claims not filed as required by this Section shall be waived.

§ 15.1.3.2 Claims by the Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7, as amended, and Article 14, as amended, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make undisputed payments for Work performed in accordance with the Contract Documents.

§ 15.1.4.2 *[Intentionally deleted.]*

§ 15.1.5 Claims for Additional Cost or An Increase in the Contract Sum or Guaranteed Maximum Price

If the Contractor wishes to make a Claim for additional cost or an increase in the Contract Sum or Guaranteed Maximum Price, written notice as provided in Section 15.1.3 shall be given to Owner and Architect. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. The Architect will promptly investigate such Claim and report findings and a recommended resolution in writing to the Owner and Contractor. If the Claim is approved by Owner's Board of Trustees, or Owner's representative if provided for herein, then Contractor shall proceed with the execution of the Work that is the subject matter of the Claim. If the Claim is rejected by the Owner, then Contractor may pursue alternative dispute resolution as provided for in the Contract Documents.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and prevented the execution of major items of work on normal working days. "Adverse weather conditions" means unusually severe weather which is beyond the normal weather recorded and expected for the locality and/or the season or seasons of the year. The Contractor shall anticipate and include in the construction

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schedule rain days due to adverse weather conditions. A rain day is defined as a day when rainfall exceeds one-half (.5) inch during a 24-hour period.

§ 15.1.6.3 Time extensions may be granted for rain days in any month when the cumulative number of rain days during that month exceeds the number scheduled, provided that the rainfall prevented the execution of major items of work on normal working days. No day will be counted as a rain day when substantial Contractor forces are able to perform Work on the Project for more than fifty percent (50%) of the usual workday or when the stage of the Work on the Project is not adversely impacted. The number of rain days shown in the above schedule for the first and last months of the Contract will be prorated in determining the total number of rain days expected during the period of the Contract. No delays or extensions shall be granted for mud conditions.

§ 15.1.6.4 No extension of time shall be made to the Contractor because of hindrances or delays from any cause which is the fault of Contractor or Contractor's Subcontractors or under Contractor's control. Claims for extension of time may only be considered because of delays caused by adverse weather conditions, or because of hindrances or delays which are the fault of Owner and/or under Owner's control, but only to the extent that Substantial Completion of the Project is adjusted beyond the original Substantial Completion date. Only claims for extension of time shall be considered because of hindrances or delays not the fault of either Contractor or Owner, but only to the extent that Substantial Completion of the Project exceeds the Substantial Completion date established for the Work. Board approval shall be required for any extension of time. No damages shall be paid for delays. Contractor shall only be entitled to time extensions per the terms of the Contract Documents.

§ 15.1.6.5 Requests for time extension shall be submitted on a monthly basis and shall specify the time delay, the cause of the delay, and the responsible party for the delay, whether Contractor, Owner, rain day, or other. No claims for damages for delay shall be made by Contractor. Any claim not submitted under the terms of this Section shall be waived.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor waives all Claims against Owner for consequential damages arising out of or relating to this *(Paragraphs deleted)*

Contract, including, but not limited to, any amount owed as compensation for the increased cost to perform the Work as a direct result of Owner-caused delays or acceleration.

Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Resolution of Claims and Disputes

§ 15.2.1 Claims by the Contractor against the Owner, including those alleging an error or omission by the Architect, shall be referred initially to the Architect for written recommendation. An initial recommendation by the Architect shall be required as a condition precedent to mediation or litigation of all Claims by the Contractor arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Architect with no recommendation having been rendered by the Architect.

§ 15.2.2 The Architect shall review Claims and within ten days of the receipt of the Claim take one of the following actions: (1) request additional supporting data from the Contractor, or (2) make a written recommendation to the Owner, with a copy to the Contractor.

§ 15.2.3 In evaluating Claims, Architect may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in making a written recommendation.

§ 15.2.4 If the Architect requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Architect when the response or supporting data will be furnished, or (3) advise the Architect that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Architect will either reject or approve the Claim in whole or in part.

§ 15.2.5 Following receipt of the Architect's written recommendation regarding a Claim, the Owner and Contractor shall attempt to reach agreement as to any adjustment to the Contract Sum or Guaranteed Maximum Price and/or Contract Time. If no agreement can be reached, then either party may request mediation of the dispute pursuant to Section 15.3.

§ 15.2.6 Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.6.1 [Intentionally deleted.]

§ 15.2.7 [Intentionally deleted.]

§ 15.2.8 [Intentionally deleted.]

§ 15.3 Alternative Dispute Resolution

§ 15.3.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived under the terms of the Contract Documents, shall, after written recommendation by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation at the request of either party. Owner and Contractor expressly agree that mediation shall be a condition precedent to the initiation of any litigation arising out of such Claims. Claims for injunctive relief shall not be subject to this Section.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation. Requests for mediation shall be filed in writing with the other party to the Contract. Mediation shall be subject to and in accordance with Chapter 154 of the Texas Civil Practice & Remedies Code. Mediation shall be conducted by a mutually-agreed-upon mediator. In the event that the parties are unable to agree on a mediator, then the parties shall jointly request the appointment of a neutral mediator by a District Judge in the county in which the Project is located.

§ 15.3.3 The parties shall share the mediator's fee equally and, if any filing fee is required, shall share said fee equally. Mediation shall be held within the county where the Owner's main administrative office is located, unless another location is mutually agreed upon by the parties. Agreements reached in mediation shall be reduced to writing, considered for approval by the Owner's Board of Trustees, signed by the parties if approved by the Board of Trustees, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

§ 15.3.4 Any claim not resolved in mediation shall be subject to litigation pursuant to Section 13.1.

§ 15.4 No Arbitration

§ 15.4.1 Notwithstanding anything to the contrary in the Contract Documents or in any document forming a part hereof, there shall be NO mandatory arbitration for any dispute arising hereunder.

§ 15.5 Contractor stipulates that Owner is a political subdivision of the State of Texas, and, as such, enjoys immunities from suit and liability provided by the Constitution and laws of the State of Texas. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 15.6 In any adjudication under this Agreement, reasonable and necessary attorneys' fees may be awarded to the prevailing party.

EXECUTED this ___ day of June, 2024.

OWNER:

Dr. Scott Muri
Title: Superintendent
Ector County Independent School District

CONTRACTOR:

By (Printed Name) Chad Henthorn
Title: Chief Executive Officer

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Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Anthony Sorola, Associate Superintendent of Athletics, Human Capital, and Operations

SUBJECT: **DISCUSSION OF AND REQUEST FOR APPROVAL OF CONSTRUCTION MANAGER AT RISK CONTRACT AND GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION BETWEEN ECISD AND TEINERT CONSTRUCTION FOR A CTE HIGH SCHOOL**

DATE: June 18, 2024

It is the recommendation of the administration that the Board of Trustees approve the Construction Manager at Risk Contract and General Conditions of the Contract for Construction between ECISD and Teinert Construction for a CTE High School.

Administrative Recommendation:

Approval of Construction Manager at Risk Contract and General conditions of the Contract for Construction between ECISD and Teinert Construction for a CTE High School.

 **AIA** Document A133[®] – 2019

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

AGREEMENT made as of the 18 day of June in the year 2024
(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, TX 79761

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

Allen Teinert Construction Co., Inc. dba Teinert Construction
1402 Crickets Ave.
Lubbock, TX 79401

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

2023 Bond Program New Construction :
New Career and Technical Education Center ("CTE")

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

PBK Architects, Inc.
6300 Bridge Point Pkwy Building 2, Suite 115
Austin, TX 78730

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

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

AIA Document A201[™]-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

WHEREAS Ector County Independent School District (hereinafter referred to as "Owner") and Teinert Construction (hereinafter referred to as "Construction Manager") desire to enter into a contract under which Construction Manager will perform construction services relating the above-referenced Projects on behalf of Owner;

WHEREAS Owner and Construction Manager have agreed to enter into AIA Document A133[™]-2019 Contract ("Contract") as the basic form for that contract; and

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User Notes:

(963333189)

WHEREAS certain terms and conditions of the contract must be modified to comply with applicable laws and policies affecting Owner and Construction Manager on this project, Owner and Construction hereby agree to the following amendments to the Contract: TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 GENERAL PROVISIONS
- 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES
- 4 OWNER'S RESPONSIBILITIES
- 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
- 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
- 7 COST OF THE WORK FOR CONSTRUCTION PHASE
- 8 DISCOUNTS, REBATES, AND REFUNDS
- 9 SUBCONTRACTS AND OTHER AGREEMENTS
- 10 ACCOUNTING RECORDS
- 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES
- 12 DISPUTE RESOLUTION
- 13 TERMINATION OR SUSPENSION
- 14 MISCELLANEOUS PROVISIONS
- 15 SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

EXHIBIT B INSURANCE AND BONDS

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

New Career and Technical Education Center

This facility is slated to have approximately 18 programs of study and centralize many of the CTE programs offered in ECISD at one location. It will serve as a main campus for 400 full time students and bus in 2,000 students.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

New Career and Technical Education Center
-Situated in Ector County, E Murphy St. Odessa, TX 79761

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

New CTE Facility:
Sixty Million Dollars (\$60,000,000.00)

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

New CTE Facility: 4/1/2024 through 4/3/2025

.2 Construction commencement date:

New CTE Facility: 7/5/2025

.3 Substantial Completion date or dates:

New CTE Facility: 12/5/2026

.4 Other milestone dates:

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

To be determined at a later date.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234-2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234-2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

(Paragraphs deleted)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Dr. Scott R. Muri, Superintendent of Schools, or his designee
Ector County ISD
802 North Sam Houston
Odessa, TX 79761
Tel.: 432.456.9878

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

Program Manager to be determined by Owner at a later date.

§ 1.1.10 The Owner may retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

To be determined at a later date

.2 Civil Engineer:

To be provided by Architect

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

Program Manager

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Mr. Darrell Pearson, AIA
6300 Bridge Point Pkwy Building 2, Suite 115
Austin, TX 78730
512.340.0676
darrell.pearson@pbk.com

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Mr. Chad Henthorn, CEO
Teinert Construction
1402 Crickets Ave.
Lubbock, TX 79401
806.744.2801
chad@teinert.com

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:

(List any Owner-specific requirements to be included in the staffing plan.)

Colten Nance – Jr. Estimator
Cameron Cohen – Sr. Estimator
Daniel Horton – Pre-Construction Director

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:

(List any Owner-specific requirements for subcontractor procurement.)

To be addressed in GMP Amendment and as required in Chapter 2269, Subchapter F of the Texas Government Code.

§ 1.1.15 Other Initial Information on which this Agreement is based:

N/A

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior written notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, as amended, Conditions of the Contract (General, Supplementary and other Conditions), as amended, Drawings, Specifications, Addenda issued prior to execution of this Agreement, all sections of the Project Manual, other documents listed in this Agreement, Modifications issued after execution of this Agreement, the proposal signed by the Construction Manager, the request for proposals, and Construction Manager's proof of payment and performance bonds, and proof of insurance, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15. Any reference to AIA Document A201-2017 in this Agreement shall be construed as the AIA Document A201-2017, as amended.

§ 2.1.1 Any revision, amendment, or modification to the Standard Form of this Agreement shall be valid, binding, and enforceable only if said revision, amendment or modification is made conspicuous by being underlined, lined-through, or highlighted in this Agreement signed by Construction Manager and the authorized representative of Owner's Board of Trustees. In the event of conflict, terms and conditions contained in the Agreement, as amended, shall take precedence over terms and conditions contained in the General Conditions, as amended, and the terms and conditions in the General Conditions, as amended, shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein.

§ 2.1.2 The Board of Trustees is the only representative of the Owner, an independent school district, having the power to enter into or amend a contract, to approve changes in the scope of the Work, to approve and execute a Change Order or Construction Change Directive modifying the Guaranteed Maximum Price, to agree to an extension to the date of Substantial or Final Completion or to terminate a contract. The Owner designates the following as the individual authorized to sign documents on behalf of the Board of Trustees: Superintendent or his designee.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to perform the Work defined in the Contract Documents, in accordance with the Owner's requirements and construction cost limitations, as approved by the Owner's Board of Trustees, as set forth in the Contract Documents; to furnish efficient construction administration, management services, and supervision; to furnish construction services, if allowed in accordance with law; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents. The Owner and Construction Manager shall endeavor to promote harmony and cooperation among the Owner, Architect, Construction Manager, Construction Manager's subcontractors, and other persons or entities employed by the Owner for the Project.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

(Paragraph deleted)

§ 2.3.2 Per Texas Government Code, Section 2269.257, if a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected, the Construction Manager may itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

§ 2.3.3 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services including preparation of schedule and estimates. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The recommendations and advice of the Construction Manager concerning design alternative and potential cost savings shall be subject to the review and approval of the Architect, Owner, and the Owner's professional consultant. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by, or that reasonably should have been discovered by, or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other. In cooperation with the Architect's initial conceptual design, the Construction Manager shall prepare a detailed written report to the Owner setting out an initial cost estimate based on the Owner's Design Standards and Educational Specifications, using industry research, estimated quantities and labor costs, and shall participate in a meeting with the Owner's team and the Architect to review and discuss conceptual design and initial cost estimate.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction, which shall satisfy Owner's time requirements; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.3.4 During the Preconstruction Phase, the Construction Manager shall review the Contract Documents to ascertain whether the components of the plumbing, electrical and mechanical systems may be constructed without interference with each other, or with the structural or architectural components of the Project, or with existing systems. In the event that conflicts between the systems are discovered, the Construction Manager shall promptly notify the Owner and Architect in writing.

§ 3.1.3.5 Notwithstanding any provision of the General Conditions of the Contract for Construction to the contrary, the Construction Manager shall not be entitled to additional compensation for any delay or disruption to the Work arising from any conflict between the mechanical, electrical, and plumbing systems with each other, or with the structural or architectural components of the Work, or with existing systems, if such conflicts should have been discovered during the Construction Documents Phase by the Construction Manager through the exercise of reasonable diligence, and the Owner and Architect were not informed of such conflicts as required by subparagraph 3.1.3.4. This provision shall apply only with respect to conflicts appearing in the Drawings and Specifications provided for the Construction Manager's review prior to proposal of a Guaranteed Maximum Price.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; dates of Substantial Completion and Final Completion; and the occupancy requirements of the Owner. If updated Project schedules indicate that previously-approved schedules may not be met, then the Construction Manager shall make appropriate recommendations to the Owner and Architect and, upon written approval of both, shall implement necessary corrective action.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and

construction scheduling issues. The Construction Manager shall make recommendations to the Owner and Architect regarding the phased issuance of Drawings and Specifications so as to facilitate the proposal of a Guaranteed Maximum Price when all elements of the Drawings and Specifications are at least ninety percent complete, unless mutually agreed otherwise by the Architect, Owner and the Construction Manager.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action, and/or cost reductions, including but not limited to, substitution of materials or revisions or alterations to the Design Development Documents or the Construction Documents, to bring the Project within the Owner's budget, but shall not delete necessary components of the Project without Owner's Board of Trustees or designee's consent. In the event that the quality or scope identified in the estimates are unacceptable or exceed the Owner's identified budget, the Construction Manager shall work with the Architect to develop options that are acceptable to Owner and are within the Owner's budget.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 For all elements of the Work, the Construction Manager must obtain the Owner's written approval of the packaging of the scope of work for trade contractors or subcontractors, prior to publicly advertising for bids or proposals from trade contractors or subcontractors.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project. To the extent not inconsistent with the Construction Manager's requirements under Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall seek to develop subcontractor interest in the Project and shall furnish to the Owner and Architect for their information a list of possible subcontractors, including suppliers who are to furnish materials or equipment fabricated to a special design, from whom proposals will be requested for each principal portion of the Work. The Architect will promptly reply in writing to the Construction Manager if the Architect or Owner know of any objection to such subcontractor or supplier. The receipt of such list shall not require the Owner or Architect to investigate the qualifications

of proposed subcontractors or suppliers, nor shall it waive the right of the Owner or Architect later to object to or reject any proposed subcontractor or supplier.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

N/A

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 When all elements of the Construction Documents are at least 90 percent complete, at a time mutually-agreed upon by the Owner and the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, the general conditions; and the Construction Manager's Fee. If any Guaranteed Maximum Price proposal submitted to the Owner exceeds previously-approved estimates or the Owner's budget, then the Construction Manager shall make appropriate recommendations to the Owner and Architect for cost reductions, including but not limited to, substitution of materials or revisions or alterations to the Construction Documents, to bring the Project within the Owner's budget, but shall not delete necessary components of the Project without Owner's Board of Trustees' consent. In the event that the quality or scope identified in the proposal are unacceptable or exceed the Owner's identified budget, the Construction Manager shall work with the Architect to develop options that are acceptable to Owner, are within the Owner's budget, and meet the Owner's requirements for dates of Substantial Completion and Final Completion. The Construction Manager may propose separate Guaranteed Maximum Prices for separate Works within the Project, as schedules and efficiencies dictate. The Construction Manager will work with the Architect to achieve a Guaranteed Maximum Price that is fully acceptable to Owner and is within the Owner's budget for the Work and for the Project.

§ 3.2.2 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.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; general conditions; and the Construction Manager's Fee;

- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based;
- .5 The date of Final Completion upon which the proposed Guaranteed Maximum Price is based, which date shall not be more than thirty (30) days after the date of Substantial Completion; and
- .6 The Guaranteed Maximum Price proposal may not be based in any part on any subcontract or material supply contract which would require the Owner to compensate the Construction Manager on other than a maximum price basis.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. The Guaranteed Maximum Price will contain a separately-identified contingency amount (the "Construction Contingency"). The Construction Contingency is not allocated to any particular item of the Cost of the Work and is established for the Construction Manager's use as may be required for costs incurred in the Work from unforeseeable causes, or details which could not have been anticipated by the Construction Manager at the time of the Owner's approval of the Guaranteed Maximum Price. Such unforeseeable causes or unanticipated details include, but are not limited to, refinement of details of design within the scope of standards, quality and quantities which are reasonably inferable from the Guaranteed Maximum Price documents, the correction of minor defects not relating to design, delays in receipt of materials, and additional costs relating to Subcontractor defaults not reimbursed by the Subcontractor's bonding company. The Construction Manager, with Owner's representative's written approval, may utilize the Construction Contingency for any of the above items within the Cost of the Work without the necessity of a Change Order, without constituting a Change in the Scope of the Work, and without resulting in any change in the Guaranteed Maximum Price. Any unforeseeable causes or unanticipated details which exceed the Construction Contingency shall be borne by the Construction Manager at the Construction Manager's sole risk. All savings will accrue and be available for use, only as detailed above, by the Construction Manager until the Construction Manager's final accounting. In the final accounting, all supporting documentation for all uses of the Construction Contingency shall be provided to Owner. Upon final accounting, all remaining monies in the Construction Contingency shall accrue to the Owner. The Guaranteed Maximum Price shall also include a separately-identified contingency amount, an "Owner's Contingency," which is defined as a contingency fund within the Guaranteed Maximum Price established by the Owner for the Owner's exclusive use. Monies from Owner's Contingency may be spent in the discretion of Owner's Representative and without additional Board of Trustees approval, but with subsequent notice to Owner's Board of Trustees. Any unused Owner's contingency shall accrue to the Owner.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both. As soon as feasible after Architect's preliminary approval of the Construction Manager's proposed Guaranteed Maximum Price, the Architect will prepare the Amendment forms and return them to the Construction Manager for review, signature, and return to the Owner.

§ 3.2.6 The Owner's Board of Trustees shall be allowed not less than thirty (30) days after receipt of the Construction Manager's signed Guaranteed Maximum Price Amendment to review and take action on the Amendment. Unless the Owner's Board of Trustees accepts the Guaranteed Maximum Price Amendment by Board action within thirty (30) days after District's receipt, the Amendment will not become effective and the Construction Phase will not commence. Following the Board's acceptance of a Guaranteed Maximum Price, the Owner shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall not include in the Guaranteed Maximum Price any taxes from which Owner is exempt.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 The date of commencement of the Work shall mean the date of commencement of the Construction Phase, as provided in Section 8.1.2 of A201-2017.

§ 3.3.1.2 The Construction Phase shall not commence unless and until Owner's Board of Trustees accepts, and Owner's authorized representative executes, the Guaranteed Maximum Price Amendment. The Date of Commencement shall be clarified in the GMP Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 Pursuant to Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall publicly advertise and solicit through competitive purchasing, as required by law, competitive sealed proposals from Subcontractors Pursuant to Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall publicly advertise and obtain bids or proposals from Subcontractors for the performance of all major elements of the Work. All bids or proposals shall be sent directly to Construction Manager.

The Construction Manager may seek to perform portions of the Work required to be publicly advertised. If the Construction Manager submits its own proposal for any portion of the Work, it shall do so in the same manner as required of all subcontractors. Owner shall decide whether or not Construction Manager's proposal for self-performing portions of the Work offers the best value to Owner. In opening proposals, neither Construction Manager nor Owner shall disclose the contents of a proposal during the selection process to anyone who is not an employee of the Construction Manager, architect, engineer, or Owner. All proposals shall be made public within seven days after the Owner's final selection. If Construction Manager's proposal is selected by the Owner, the proposed cost for the self-performed work shall be paid to the Construction Manager, pursuant to progress payments, as if Construction Manager were a subcontractor. Such payments to Construction Manager shall be included in the Cost of the Work, but the Construction Manager shall not receive an additional Construction Manager's fee for self-performed work. Pursuant to Texas Government Code Chapter 2269, Subchapter F, if during the course of recommending proposals, the Construction Manager recommends to Owner a proposal from a subcontractor, but the Owner requires another proposal to be accepted, the Owner shall compensate the Construction Manager by a change in price, time, and/or Guaranteed Maximum Price for any additional cost and risk that the Construction Manager may incur as a result, if such change exists. Construction Manager shall state the additional cost and/or risk in writing and shall provide written proof of same before Owner compensates Construction Manager.

§ 3.3.2.1.1 The Construction Manager shall include the following specific notices in the information to proposers:

- .1 The successful proposer's responsibility to provide workers' compensation insurance in accordance with Texas Labor Code Chapter 406;
- .2 The successful proposer's responsibility to pay prevailing wages pursuant to Texas Government Code Chapter 2258;
- .3 A notice of the sales tax exemption for the Work and the procedure for obtaining any required exemption verification or certificate;
- .4 The notice regarding trench and shoring safety required by Texas Health and Safety Code Section 756.023.

§ 3.3.2.1.2 Nothing herein shall preclude the Construction Manager from including other notices required or allowed by law.

3.3.2.1.3. The Construction Manager shall schedule and conduct weekly or otherwise regularly-scheduled meetings at which Owner, Architect, Construction Manager, and appropriate Subcontractors meetings discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect. The Construction Manager shall provide periodic

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presentations updating the progress, quality and status of the Work to Owner's Board of Trustees, at Owner's request, at no additional cost to Owner.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment by Owner and Construction Manager, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201-2017, including the Owner's occupancy requirements.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress, including changes to the Work approved by Owner, and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

§ 3.3.3 To the extent that any portion of the Work requires a trench excavation exceeding five (5) feet in depth, in accordance with Texas Health and Safety Code Section 756.023(a), Construction Manager shall fully comply, and shall require any applicable subcontractor to comply, with:

- .1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work.
 - .2 The special shoring requirements, if any, of the Owner.
 - .3 Any geotechnical information obtained by Owner for use by the Construction Manager in the design of the trench safety system.
1. § 3.3.4 shall be added as follows:

§3.3.4 Trench excavation safety protection shall be a separate pay item, and shall be based on linear feet of trench excavated. Special shoring requirements shall also be a separate pay item, and shall be based on the square feet of shoring used. Said cost shall be included within the Guaranteed Maximum Price.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

[Paragraph intentionally deleted.]

(Paragraph deleted)

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs, including the Owner's Contingency as provided in Section 3.2.4. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. Such documents shall be provided for information only and are not warranted or represented to show the conditions at the Project site accurately. Construction Manager may use the information at its own risk and shall use customary precautions relating to the performance of the Work. Notwithstanding the preceding sentences and the delivery of surveys or other documents and reports by Owner, Construction Manager shall perform all work in such a non-negligent manner so as to avoid damaging any utility lines, cables, pipes, or pipelines on the Property. Contractor shall be responsible for any damage done to such lines, cables, pipes and pipelines during the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law or as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys as provided in Section 2.2.3 of AIA A201-2017.

§ 4.1.4.3 Unless provided by the Architect by agreement with the Owner, the Owner, when such services are reasonably required by the scope of the Work and are requested by the Architect or Construction Manager and approved by the Owner, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner may also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's reasonable written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

Owner's Board of Trustees shall designate one or more authorized representatives to act on its behalf in the day-to-day administration of the Project, to issue stop work orders, and to authorize expenditures within the Owner's contingency. The Board designates as its authorized representatives, the following individuals: Dr. Scott Muri, Superintendent, or his designee.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that the Owner may determine to be reasonably necessary at any time for the Project to meet the Owner's needs and interests. Construction Manager shall furnish all legal, insurance, and accounting services that Construction Manager may determine to be necessary to meet Construction Manager's needs and interests.

§ 4.3 The Construction Manager's services shall be provided in conjunction with the services of an Architect. The terms of the agreement between the Owner and Architect shall be available for inspection by the Construction Manager upon request.

§ 4.4 Inspection and Testing. Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement. Pursuant to Texas Government Code Section 2269.058, the Owner shall provide or contract for, independently of the Construction Manager, construction materials engineering, and testing and inspection services necessary for acceptance of the Work by Owner."

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

Forty Seven Thousand Fifty Eight Dollars (\$47,058.00)

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

N/A

(Table deleted)

§ 5.1.2.1 [Intentionally deleted.]

§ 5.1.3 NOT USED

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the

(Paragraphs deleted)

maximum rate permitted by law, in accordance with Texas Government Code Chapter 2251.

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 Owner shall not be obligated or have any duty to compensate Construction Manager for any Construction Phase Services unless and until the Guaranteed Maximum Price Amendment is first approved by the Owner's Board of Trustees and executed by Owner. The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee, plus the general conditions, the total of which shall not exceed the Guaranteed Maximum Price.

§ 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

New CTE School: One Million One Hundred Forty Thousand Dollars (\$1,140,000.00)

No Construction Manager's fee shall be paid on the Construction Manager's Contingency or the Owner's Contingency until funds are allocated from those contingencies to the Cost of the Work, or as provided in Section 2.3.2.1.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

Fee shall be adjusted at One point Nine percent (1.9%) for changes in the work or any scope increases that cause the project to go over budget listed herein.

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work: A Subcontractor's overhead and profit attributable to increases in the cost of its portion of the Work, as evidenced by executed Change Order(s) identifying the same, shall not exceed the amounts allowed in Article 7 of the A201 General Conditions, as modified by the Owner.

(Paragraph deleted)

§ 6.1.5 General Conditions. All charges, if any, for general conditions (costs to be reimbursed) shall be delineated separately in the Guaranteed Maximum Price Amendment, and may include only the following: on-site Project Manager; on-site Project and Site Superintendents; on-site Assistant Superintendents; minor work that may be included in the general conditions as allowed by Texas Government Code Section 2269.255; office trailer expenses; on-site sanitary facilities; project sign; safety/first aid; on-site technology; temporary water and power; project site office supplies and office equipment; plan reproduction; construction photographs; dumpsters; final clean-up; equipment rental; fuel; small tools; and items described in more detail below.

§ 6.1.6 Rental rates for Construction Manager-owned equipment shall be subject to the Owner's prior approval and shall not exceed Eighty percent (80 %) of the standard rental rate paid at the place of the Project.

(Paragraphs deleted)

§ 6.1.7 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.

§ 6.1.8 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries, for Construction Manager's on-site Project Manager, on-site Project and Site Superintendents, on-site Assistant Superintendents, and Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.

§ 6.1.9 Actual rental charges for temporary facilities, machinery, equipment and hand tools not included in Section 6.5.1 and not customarily owned by construction workers that are provided by the Construction Manager at the site and costs of transportation, installation, minor repairs, dismantling and removal.

§ 6.1.10 The general conditions shall not include the following: all reimbursement for profit; indirect costs; all telephone bills for all personnel; all facsimile charges; home office personnel and benefits assigned to the Project; home office overhead and expenses; home office personnel relocation; all home office accounting, audit, legal and data processing fees and expenses; and all travel, meals and lodging.

§ 6.1.11 Liquidated Damages, if any:

.1 Time is of the essence in all phases of the Work. It is specifically understood and agreed by and between Owner and Construction Manager 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 Construction Manager's failure, neglect or refusal to achieve said deadlines. Such actual and direct 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 Construction Manager that the amounts stated below are the minimum value of the costs and actual and direct damages caused by failure of Construction Manager to substantially complete the work within the allotted times, that such sums are liquidated direct damages and shall not be construed as a penalty, and that such sums may be deducted from payments due Construction Manager 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 miscellaneous increased costs, all of which are difficult to exactly ascertain. Failure to complete the Work within the designated or agreed extended dates of Substantial or Final Completion, shall be construed as a breach of this Agreement.

.2 It is expressly agreed as a part of the consideration inducing the Owner to execute this Agreement that the Owner may deduct from the Final Payment made to the Construction Manager a sum as later to be set forth in the GMP Amendment for each and every additional calendar day beyond the agreed date of Substantial Completion.

.3 Timely Final Completion is an essential condition of this Agreement. Construction Manager agrees to achieve Final Completion of the Agreement within 30 days of the designated or extended date of Substantial Completion. Owner and Construction Manager agree that should Construction Manager fail to achieve Final Completion of the Agreement by the deadline, Owner shall continue to be damaged to a greater degree by such delay. Construction Manager 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 As later to be set forth in the GMP Amendment. Owner may deduct from the Final Payment made to Construction Manager, or, if sufficient

funds are not available, then Construction Manager 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 Such damages shall be in addition to, and not in lieu of, any other rights, claims or remedies Owner may have against Construction Manager. 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.

§ 6.1.12 Other:

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

Cost Savings Split: Owner: 100%, CM: 0%

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents, and the Dates of Substantial Completion and Final Completion shall be subject to adjustment as provided in the Construction Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner. Should the final audited Contract Sum be less than the Guaranteed Maximum Price, then the difference between the Contract Sum and the Guaranteed Maximum Price shall be considered as savings to the Owner, and Owner shall have no obligation to pay same to the Construction Manager. Construction Manager shall also consider as savings to the Owner all unused funds from any Contingency account. The Construction Manager shall not participate in any savings; all savings shall be credited to Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner, with Board of Trustees' approval, if appropriate, may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. Either the Construction Manager or the Owner, as appropriate, may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction, as amended for this project.

§ 6.3.2 Increases or decreases, if any, to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction, as amended for this project.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee may be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean the following direct, actual and verifiable costs reasonably and necessarily incurred by the Construction Manager in the proper performance of the Work, except those costs compensated as general

conditions under Section 6.1.5 above. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7. Cost of the Work that exceeds the Guaranteed Maximum Price shall be borne by the Construction Manager.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior written approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform any portion of the construction of the Work at the site or, with the Owner's prior written approval, at off-site workshops, to the extent allowed by Texas Government Code Sections 2269.255 or 2269.275.

§ 7.2.2 *[Intentionally deleted.]*

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and, to the extent same are not compensated under general conditions, are directly attributable to and required for the Work, and are approved by the Owner.

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

To be listed in Assumptions & Clarifications Attachment to GMP Amendment

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work and to the extent same are not compensated under general conditions, are directly attributable to and required for the Work, and are approved by the Owner.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for employment-related taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3, to the extent not compensated under general conditions.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts. Any Subcontract Work to be performed by the Construction Manager's own forces on the basis of a bid or proposal submitted by the Construction Manager per Section 3.3.2.1, as amended, shall be treated as Work performed by a Subcontractor under this Section. The Construction Manager's compensation for such Subcontract Work performed shall be based on the amount of the bid or proposal submitted by the Construction Manager for such Work, rather than "actual costs" as provided elsewhere in Article 6 of this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

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

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

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Except for items included as general conditions, costs of transportation, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 *[Intentionally deleted.]*

§ 7.5.3 To the extent not compensated under general conditions, costs of removal of debris from the site of the Work and its proper and legal disposal, other than final clean-up.

§ 7.5.4 To the extent not compensated under general conditions, costs of the Construction Manager’s site office, including general office equipment and supplies.

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

§ 7.6 Miscellaneous Costs

§ 7.6.1 To the extent not compensated under general conditions, premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

[Intentionally deleted.] [Intentionally deleted.]
(Paragraphs deleted)

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority for materials that are related to the Work, but not incorporated into the Work, and for which the Construction Manager is liable and Owner is not exempt. Construction Manager shall be obligated to take reasonable care to obtain all applicable tax exemptions.

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

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents and paid by the Construction Manager.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

[Intentionally deleted.] [Intentionally deleted.] [Intentionally deleted.]
(Paragraphs deleted)

§ 7.6.8 Deposits lost for causes directly resulting from the Owner’s wrongful actions or decisions.

[Intentionally deleted.] [Intentionally deleted.] [Intentionally deleted.]
(Paragraphs deleted)

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, to the extent same are not compensated under general conditions, are directly attributable to and required for the Work, and are approved by the Owner.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 *[Intentionally deleted.]*

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9, or other provision of or amendment to

this Agreement. However, notwithstanding anything in Article 7 to the contrary, no reimbursable cost or expense will be paid again if it is also included and paid in any general conditions amount submitted by Construction Manager.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner in writing of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails or refuses to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

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

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;

(Paragraph deleted)

- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded;
- .9 Costs for services incurred during the Preconstruction Phase;
- .10 Delay damages or claims;
- .11 Storage costs, unless with prior written owner approval;
- .12 All costs intentionally excluded in Article Section 6 above, including all subsections; and
- .13 All items included in either general conditions under Section 6.1.5 above, or the Construction Manager's Fee in Section 6.1.2. above.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Construction Manager shall take advantage of all available discounts, rebates, and refunds for supplies, materials, and equipment connected with the Work, and which conform to the Contract Documents, which discounts, rebates, and refunds shall accrue to the benefit of the Owner. Cash Discounts obtained on payments made by the Construction Manager shall accrue to the Owner. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction

Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

§ 9.3 Pursuant to Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall publicly advertise and solicit through competitive purchasing, as required by law, competitive sealed proposals from Subcontractors Pursuant to Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall publicly advertise and obtain bids or proposals from Subcontractors for the performance of all major elements of the Work. All bids or proposals shall be sent directly to Construction Manager.

§ 9.4 The Construction Manager shall include the following specific notices in the information to proposers:

- .1 The successful proposer's responsibility to provide workers' compensation insurance in accordance with Texas Labor Code Chapter 406;
- .2 The successful proposer's responsibility to pay prevailing wages pursuant to Texas Government Code Chapter 2258;
- .3 A notice of the sales tax exemption for the Work and the procedure for obtaining any required exemption verification or certificate;
- .4 The notice regarding trench and shoring safety required by Texas Health and Safety Code Section 756.023.
- .5 The following shall be included in any information to proposers, Request for Proposals, or Bid Documents:

"By submitting a bid or proposal, each bidder or proposer agrees to waive any claims it has or may have against the Owner, the Architect, the Construction Manager, and their respective officers, trustees, employees, agents, or representatives, arising out of or in connection with the administration, evaluation, recommendation, or selection of any bid or proposal; waiver of any requirements under the bid or proposal documents or contract documents; acceptance or rejection of any bid or proposal; and award of the contract."

§ 9.5 Nothing herein shall preclude the Construction Manager from including other notices required or allowed by law.

§ 9.6 The Construction Manager may seek to perform portions of the Work required to be publicly advertised. If the Construction Manager submits its own proposal for any portion of the Work, it shall do so in the same manner as required of all subcontractors. Owner shall decide whether or not Construction Manager's proposal for self-performing portions of

the Work offers the best value to Owner. In opening proposals, neither Construction Manager nor Owner shall disclose the contents of a proposal during the selection process to anyone who is not an employee of the Construction Manager, architect, engineer, or Owner. All proposals shall be made public within seven days after the Owner's final selection. If Construction Manager's proposal is selected by the Owner, the proposed cost for the self-performed work shall be paid to the Construction Manager, pursuant to progress payments, as if Construction Manager were a subcontractor. Such payments to Construction Manager shall be included in the Cost of the Work, but the Construction Manager shall not receive an additional Construction Manager's fee for self-performed work. Pursuant to Texas Government Code Chapter 2269, Subchapter F, if during the course of recommending proposals, the Construction Manager recommends to Owner a proposal from a subcontractor, but the Owner requires another proposal to be accepted, the Owner shall compensate the Construction Manager by a change in price, time, and/or Guaranteed Maximum Price for any additional cost and risk that the Construction Manager may incur as a result, if such change exists. Construction Manager shall state the additional cost and/or risk in writing and shall provide written proof of same before Owner compensates Construction Manager.

§ 9.7 Per Texas Government Code Section 2269.257, if a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected, the Construction Manager may itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors, and other representatives shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of ten (10) years after the date of Final Completion, or for such longer period as may be required by law.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 11.1.3

The Construction Manager shall submit monthly Applications for Payment to both the Architect and Program Manager, if applicable, on AIA Form G702 for approval. Continuation sheets shall be submitted on AIA Form G703. If the Architect and Program Manager, if applicable, approve the application, then they shall submit a Certificate for Payment to the Owner. The Architect and Program Manager, if applicable, may require any additional information deemed necessary and appropriate to substantiate the Application for Payment. The Owner shall have the right to withhold from payments due Construction Manager such sums as are necessary to protect Owner against any loss or damage which may result from negligence by Construction Manager or failure of Construction Manager to perform Construction Manager's obligations under this Contract. Materials that are verified to be on the jobsite or other approved location for use in the Project may also be incorporated into the Application for Payment. The Architect and Program Manager, if applicable, shall have seven (7) days from date of receipt from the Construction Manager of an Application for Payment to approve or reject all or any part of the Application for Payment. The Owner shall pay the undisputed amounts certified by the Architect and Program Manager, if applicable, to the Construction Manager within thirty (30) days of receipt of the Certificate for Payment from the Architect and Program Manager, unless otherwise provided in the Contract Documents. Undisputed amounts unpaid after the date on which payment is due shall bear interest pursuant to Texas Government Code Section 2251.025. § 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee. Each

Application for Payment shall also include a list, with backup data, of how each payment shall be spent, including a list detailing which subcontractors and suppliers will be paid out of funds paid by the Owner and the amount of such payments to subcontractors and suppliers, and in the next payment cycle, proof of each payment to Construction Manager's subcontractors and suppliers after payment. The Construction Manager shall promptly pay all bills validly due and owing for labor and material performed and furnished by others in connection with the performance and construction of the Work.

(Paragraph deleted)

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values, less any unused Owner's contingency and unused Construction Manager's contingency, shall allocate the entire Guaranteed Maximum Price among: (1) the various portions or classifications of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee. The Construction Manager's fee shall be shown as a separate line item on the schedule of values.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect and Program Manager, if applicable, may require. The format and tracking method of the original schedule of values and of all updates to the schedule of values shall be subject to the approval of the Architect and Program Manager, if applicable. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment. If at any time, the amount shown on the schedule of values exceeds the Guaranteed Maximum Price allocable to that portion or classification of the Work, then the amount payable to Construction Manager by Owner shall be reduced by the amount of such excess.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion or classification of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) classification on the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

- .1 That portion or classification of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion or classification of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

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- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors, accountants, or other representatives, in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.
- .7 Subtract retainage of Five percent (5%) of the remaining amount, including the Construction Manager’s Fee, of the progress payment.
- .8 The progress payment amount determined in accordance with this Section shall be further modified under the following circumstances:
 - .1 Add, if Final Completion of the Work is thereafter materially delayed by Owner or Owner’s agents through no fault of the Construction Manager, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201- 2017, as amended.
 - .2 If Owner is entitled to deduct liquidated damages, or any other damages or amounts provided in the Contract Documents, including clean-up fees, then Owner shall be entitled to deduct such liquidated damages, amounts and fees due Construction Manager at any time.

.3 If Construction Manager fails or refuses to complete the Work, or has unsettled claims with Owner, then any final payment to Construction Manager shall be subject to deduction for such amounts as the Architect and Program Manager, if applicable, shall determine as the cost for completing incomplete Work and the value of unsettled claims.

§ 11.1.7.3 Payment for materials and/or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner to establish the Owner’s title to such materials and equipment or otherwise protect the Owner’s interest and shall include the costs of applicable insurance (naming the Owner as additional insured) and transportation to the site for those materials and equipment stored off the site. Under no circumstances will the Owner reimburse the Contractor for down payments, deposits, or other advance payments for materials or equipment. Payments shall be made on account of materials and equipment (a) incorporated in the Work, (b) suitably stored at the Project site, or (c) suitably stored at some off-site location provided the following conditions are met for off-site storage:

- .1 The location must be agreed to, in writing, by the Owner and Surety;
- .2 The location must be a bonded warehouse;
- .3 The Surety must agree, in writing, to each request for payment; and
- .4 The Contractor must bear the cost of the Owner’s and Architect’s expenses related to visiting the off-site storage area.

§ 11.1.7.4 In the event of Contract termination or default by the Contractor, the items stored off the site, upon which payment has been made, will be promptly turned over to the Owner or Owner’s designated representative at a location near the Project site as directed by the Owner or Owner’s designated representative. The full provisions of Performance and Payment Bonds on this Project cover the materials stored off the site in every respect as though they were stored on the Project site.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

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

Retainage is managed in conformance with Texas Government Code Chapter 2252, subchapter B.

§ 11.1.8.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

N/A

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be subject to written consent of the Contractor's Surety, and as follows:

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

Retainage maybe reduced at Owner's sole discretion.

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Final Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Final Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

N/A

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Construction Manager shall submit a claim in accordance with Article 15 of AIA Document A201-2017, as amended.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site. If the Contractor wishes to bill for materials or equipment which cannot be stored on site, the Contractor shall, along with the request for approval, provide evidence of purchase, evidence of delivery in good order without damage, and a certificate of insurance specifically covering the material identified by way of serial numbers, bill of lading, and copy of signature of receipt of materials and photography showing material. The Contractor shall also require, at the Owner's request, proof that the facility at which the materials or equipment is stored is bonded. Security and protection from theft and damage remains on the Contractor as the first line of accountability and financial responsibility. Delays due to issues arising from stored materials shall not be considered as reasonable justification to release the Contractor from meeting the schedule unless the Owner agrees to such delay in writing in advance of notification to the Owner of any delay. § 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors., The percentage of retainage held on Subcontracts shall be the same percentage of retainage withheld from Construction Manager. The Construction Manager shall execute subcontracts that contain the same terms and conditions as those contained in this Agreement.

(Paragraph deleted)

§ 11.1.12 In submitting Construction Manager's Applications for Payment, Construction Manager shall be responsible for all errors or omissions. Owner shall not be responsible for Construction Manager's errors or omissions.

§ 11.2 Final Payment

§ 11.2.1 Final payment shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, including the Construction Manager's responsibility to correct Work, except for the Construction Manager's responsibility to satisfy other requirements, if any, which Owner agrees in writing necessarily extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment that are certified by Construction Manager and reviewed and approved by the Owner's auditors or other representatives;
- .3 a final Certificate for Payment has been issued by the Architect and approved by Program Manager, if applicable, in accordance with Section 11.2.2.2;
- .4 Construction Manager has provided all documents required by Section 9.10.2 of AIA Document A201-2017, as amended; and

Init.

.5 Owner's Board of Trustees has voted to accept the Work and approve Final Payment.

§ 11.2.2 Within sixty (60) days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' or other representatives' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017 as amended. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201-2017 as amended. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' or other representatives' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to proceed in accordance with Article 12 without a further decision of the Architect. Unless otherwise agreed in the Contact Documents, a demand for mediation or other dispute resolution as provided in the Contract Documents, of the disputed amount shall be made by the Construction Manager within the timeline established in Section 15.2 of A201-2017, as amended, after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this time period shall result in the substantiated amount reported by the Owner's auditors or other representatives becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the Owner's Board approval. The Construction Manager must certify completion of all Work, including all listed in Section 9.10.2 of the AIA Document A 201-2017, as amended, for the Project, cleanup, and delivery of record documents prior to or with the Application for Final Payment.

§ 11.2.3.1 The amount of the final payment shall be calculated as follows:

- .1 Begin with the actual Cost of the Work substantiated by the Construction Manager's final accounting, which includes deductions for all discounts and unused contingencies, and construction savings achieved in the Cost of the Work, if applicable.
- .2 Add the actual expended general conditions substantiated by the Construction Manager's final accounting, which includes savings to the Owner for unused general conditions.
- .3 Add the Construction Manager's Fee.
- .4 Subtract amounts, if any, for which Architect or Owner disputes, refuses or withholds payment, if any.
- .5 If Owner is entitled to deduct liquidated damages or any other damages or amounts provided in the Contract Documents, including clean-up fees, then subtract all such liquidated damages, amounts and fees.
- .6 If Construction Manager fails or refuses to complete the Work, or has unsettled claims with Owner, then subtract such amounts as the Architect shall determine as the cost for completing incomplete Work and the value of unsettled claims.
- .7 Subtract all previous payments made by the Owner.

Init.

- .8 In no event shall the total of subsections .1, .2, and .3 above exceed the Guaranteed Maximum Price.
- .9 If the aggregate of previous payments made by the Owner exceeds the amount due the Construction Manager, the Construction Manager shall reimburse the difference to the Owner, plus interest as allowed by law.

§ 11.2.4 If, subsequent to final payment, and at the Owner’s prior written request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7 that are not excluded by Section 7.9, to correct defective or nonconforming Work that is not the fault of the Construction Manager or arising from the resolution of a dispute, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager’s Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price.

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the maximum rate permitted by law, in accordance with Texas Government Code Chapter 2251. *(Insert rate of interest agreed upon, if any.)*

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim by the Construction Manager regarding any matter between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017, as amended. However, for Claims arising from or relating to the Construction Manager’s Preconstruction Phase services, no decision or recommendation by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution.

[Paragraphs Intentionally deleted]

(Paragraphs deleted)

§ 12.1.3 When Owner has an applicable claim for construction defects, Owner shall comply with the provision of Texas Government Code Chapter 2272 related to the provision of notice of defects and the Construction Manager’s or Architect’s opportunity to cure.

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- Arbitration pursuant to Article 15 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction, with proper venue being the county where the Project is located.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

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§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work properly authorized by Owner in writing and performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017, as amended.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, as amended, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an

- amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
 - .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall only be responsible for payment as required under Article 14 of AIA Document A201-2017, with no termination fee or penalty.

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner’s convenience.)

N/A

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017, as amended; in such case, the Guaranteed Maximum Price, if established, and Contract Time may be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Unless otherwise noted, terms in this Agreement shall have the same meaning as those in A201–2017, as amended. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. The Construction Manager shall not assign this Agreement or the Contract in whole or in part without the prior written consent of the Owner’s Board of Trustees. If Construction Manager attempts to make such an assignment without such consent, the Construction Manager shall nevertheless remain legally responsible for all obligations under the Contract. This does not prevent Construction Manager from engaging subcontractors to perform various phases of the Project in accordance with law, but Construction Manager shall be fully responsible to Owner for the work, actions and omissions of all such subcontractors.

[Paragraph intentionally deleted]

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall purchase and maintain insurance as required by Article 11, A201-2017 as amended for this Project, to protect Construction Manager and Owner against all claims, damages, lawsuits, indemnities, or other actions which may arise out of or result from the Construction Manager’s operations under this Contract, whether such operations are by Construction Manager, or by any subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable. Prior to performing the Work, the Construction Manager shall provide separate performance and payment bonds in accordance with AIA Document A201- 2017 Section 11.5.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000.00) for each occurrence and two million dollars (\$ 2,000,000.00) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned hired, or any other vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000.00) than those stated below per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

(Note: Texas statutory minimum for school districts is \$100,000.00 per person, \$300,000.00 per occurrence, and \$100,000.00 property damages.) Such minimum limits shall be stated as follows, or in a combined single limit policy in the amount of at least \$1,000,000.00

.1	Bodily Injury (per person)	\$ 100,000.00 _____
.2	Bodily Injury (per accident)	\$ 300,000.00 _____
.3	Property Damage	\$ 100,000.00 _____

§ 14.3.1.3 The Construction Manager may not achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance. In no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

(Paragraphs deleted)

§ 14.3.1.4 Umbrella Excess Liability coverages shall be in at least the following amounts:

.1	\$ 5,000,000.00	Each Occurrence
.2	\$ 5,000,000.00	Aggregate
.3	\$ 5,000,000.00	Aggregate per Project Endorsement

§ 14.3.15 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$ 1,000,000.00) each accident, one million dollars (\$ 1,000,000.00) each employee, and one million dollars (\$ 1,000,000.00) policy limit.

§ 14.3.1.5.1 Texas Workers' Compensation Insurance. A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance (TDI), or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory worker's compensation insurance coverage for the Contractor's employees providing services on a Project is required for the duration of the Project.

§ 14.3.1.5.1.2 Duration of the Project include the time from the beginning for the Work on the project until the Contractor's Work on the Project has been completed and accepted by Owner.

§ 14.3.1.5.1.3 Persons providing services on the Project ("Subcontractor" in Texas Labor Code Section 406.096) include all persons or entities performing all or part of the services the Contractor has undertaken to perform on the Project, regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operations, employees of any such entity, or employees of an entity that furnishes persons to provide services on the Project.

§ 14.3.1.5.1.4 Services include, without limitation, providing, hauling or delivering equipment or materials, or providing labor, transportation, or other services related to the Projects. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

§ 14.3.1.5.1.5 The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all employees of the Contractor providing services on the Project for the duration of the Project.

§ 14.3.1.5.1.6 The Contractor must provide a certificate of coverage to the Owner prior to being awarded the Contract.

§ 14.3.1.5.1.7 If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the Project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.

§ 14.3.1.5.1.8 The Contractor shall obtain from each person providing services on the Project, and provide to the Owner:

- .1 A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have, on file, certificates of coverage showing coverage for all persons providing services on the Project; and

.2 No later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

§ 14.3.1.5.1.9 The Contractor shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.

§ 14.3.1.5.1.10 The Contractor shall notify the Owner, in writing by certified mail or personal delivery, within ten (10) days after Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.

§ 14.3.1.5.1.11 The Contractor shall post on each Project site a notice, in the text form and manner prescribed by the TDI, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

§ 14.3.1.5.1.12 The Contractor shall contractually require each person with whom it contracts to provide services on the Project to:

- .1 Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all of its employees providing services on the Project for the duration of the Project:
- .2 Provide to the Contractor, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project for the duration of the Project;
- .3 Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
4. Obtain from each other person with who it contracts, and provide to the Contractor:
 - .1 A certificate of coverage, prior to the other person beginning work on the Project; and
 - .2 A new certificate of coverage showing extension of coverage, prior to the end of the coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.
- .5 Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;
- .6 Notify the Owner in writing by certified mail or personal deliver, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and
- .7 Contractually require each person with whom in contracts to perform as required by items 1-6, with the certificates of coverage to be provided to the person for whom they are providing services.

§ 14.3.1.5.1.13 By signing the Contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the Owner that all employees of the Contractor who will provide services on the Project will be covered by worker's compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier, or, in the case of a self-insured, with the TDI's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

§ 14.3.1.5.1.14 The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the Owner to declare the Contract void if the Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the Owner.

§ 14.3.1.5.1.15 The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued or delivery, or renewed on or after January 1, 1996.

28 TAC Section 110.110(i)

(Table deleted)

§ 14.3.1.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, or if no Exhibit B is included as specified in Article 11 of AIA Document A201-201, as amended by Onwer."

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents.

§ 14.4

(Paragraphs deleted)

NOT USED § 14.5 Other provisions: § 14.5.1 Criminal History Checks. So that Owner can obtain the national criminal history record information required by Texas Education Code Chapter 22.08341 on all "covered employees," (as defined in Section 3.4.6.3.) of Contractor, its subcontractors, or any subcontracting entities who will perform the Work, Contractor shall submit to Owner the name and all necessary identifying information necessary to enable Owner to obtain the national criminal history information on those covered employees before they begin the Work. Contractor's submission will include the employee's written authorization for Owner to obtain such criminal history information. Owner may, in its sole discretion, prohibit the use of any employee to perform the Work after its review of the criminal history information, but cannot disclose the criminal history information to Contractor. Contractor shall reimburse Owner for Owner's costs incurred in obtaining the criminal history information.

§ 14.5.2 Contractor will not assign any "covered employee" with a "disqualifying criminal history," as those terms are defined below, to work on the Project. If Contractor receives information that a covered employee has a reported disqualifying criminal history, then Contractor will immediately remove the covered employee from the Project and notify the Owner in writing within three (3) business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Contractor agrees to discontinue using that covered employee to provide services on Owner's Project. If Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees, Contractor will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 14.5.3 For the purposes of this Section, "covered employees" means employees, agents, or applicants of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means: any conviction or other criminal history information designed by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification under Texas Education Code Section 21.060, and 19 Texas Administrative Code Section 249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school; a felony offense under Texas

Penal Code Title 5 Offense Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or an equivalent offense under federal law or the laws of another state.

§ 14.5.4 On request of Owner, Contractor shall provide all necessary identifying information to allow Owner to obtain criminal history record information for covered employees of the Contractor and all subcontractors. Contractor shall update this list on Owner's request.

§ 14.5.5 Owner's Additional Requirements Related to Criminal Histories. In addition, as provided in Section 3.4.6.1 above, Owner or Contractor will at least annually obtain criminal history record information that relates to any employee, agent, or applicant of the Contractor, if the person has or will have duties related to the Project, and the duties are or will be performed on Owner's Project, or at another location where students are likely to be present. Contractor shall assume all expenses associated with the background checks and shall immediately remove any employee, agent, or subcontractor who was convicted of a felony or a misdemeanor involving moral turpitude from Owner's property, or other location where students are likely to be present. Owner shall determine what constitutes "moral turpitude" or a "location where students are likely to be present.

§ 14.5.6 By executing this Agreement, Contractor verifies that it does not boycott Israel, and it will not boycott Israel during the terms of this Contract. Pursuant to Texas Government Code, Chapter 2271, as amended, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Contractor represents and warrants to the Owner that the Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.

§ 14.5.7 Contractor verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Contractor has misrepresented its inclusion on the Comptroller's list, such omission or misrepresentation will void this Contract.

§ 14.6

- .1 By entering into this Contract, pursuant to Texas Government Code 552, Subchapter J, the Contractor agrees to be bound by the following terms if the Contract has a stated expenditure of at least \$1,000,000 for the purchase of goods or services by the District or if the Contract results in the expenditure of at least \$1,000,000 in public funds for the purchase of goods or services by the District in a fiscal year of the District. If the District receives a written request for public information related to this Contract that is in the possession or custody of the Contractor and not in the possession or custody of the District, the District shall send, not later than the third business day after the date the District receives the written request, a written request to the Contractor that Contractor provide that information to the District.
- .2 The Contractor must:
 - .1 Preserve all contracting information related to the Contract as provided by the records retention requirements applicable to the District for the duration of the Contract;
 - .2 Promptly, within four business days, provide to the District any requested contracting information that is in the custody or possession of the Contractor upon request of the District; and,
 - .3 On completion of the Contract, either:
 - .1 Provide to the District at no cost all contracting information related to the Contract that is in the custody or possession of the Contractor; or
 - .2 Preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the District.

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- .3 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract and the Contractor agrees that the contract can be terminated if the Contractor knowingly or intentionally fails to comply with the requirements of that subchapter.
- .4 Further, under Texas Government Code Chapter 552.372(c), the District may not accept a bid for or awarding of a contract to an entity that the District has determined has knowingly or intentionally failed in a previous bid or contract to comply with Subchapter J, unless the District determines and documents that the entity has taken adequate steps to ensure future compliance.
- .5 If a Contractor fails to provide to the District the requested information, Texas Government Code Chapter 552.373 requires the District to notify the Contractor in writing of the failure and allow 10 business days to cure the violation. District may terminate the Contract if Contractor fails to remedy the failure, District determines the failure was knowing and intentional, and steps have not been taken to ensure future compliance."
- .6 If Contractor is not a sole proprietorship, has ten (10) or more employees, and the value of Contractor's bid or proposal has a value of \$100,000 or more, Contractor certifies by submitting Contractor's bid or proposal that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined by Texas Government Code Ann. Chapter 2274, and will not during the term of any contract with the Owner, unless excepted from that law.
7. As required by Texas Government Code Ann. Chapter 2274, if Contractor has ten (10) or more employees, is not a sole proprietorship, and if the value of Contractor's bid or proposal has a value of \$100,000 or more, Contractor certifies by submitting Contractor's bid or proposal that it does not boycott energy companies and will not during the term of any contract with the Owner, unless excepted by that law.

§ 14.7 The Contractor verifies by its signature below that it is not an abortion provider or an affiliate of abortion providers.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Contract represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both Owner and Construction Manager. If any portion of this Contract is determined to be invalid, unenforceable, or void, then that portion shall be severed, and all other portions of this Contract shall remain in full force and effect.

§ 15.2 The following documents are included in the Contract, in addition to those listed in Section 1.1.:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, once, and if, executed
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction

(Paragraphs deleted)

as Amended by Owner

.5

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

OWNER *(Signature)*

Dr. Scott Muri Superintendent
(Printed name and title)

CONSTRUCTION MANAGER *(Signature)*

Chad Henthorn Chief Executive Officer
(Printed name and title)

AIA[®] Document A201[®] – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

2023 Bond Program new Construction
New Career and Technical Education Center ("CTE")

THE OWNER:

(Name, legal status and address)

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

THE ARCHITECT:

(Name, legal status and address)

PBK Architects, Inc.
6300 Bridge Point Pkwy Building 2, Suite 115
Austin, TX 78730

THE CONTRACTOR:

Allen Teinert Construction Co., Inc. dba Teinert Construction
1402 Crickets Ave.
Lubbock, TX 79401

WHEREAS Ector County Independent School District (hereinafter referred to as "Owner") and Teinert Construction (hereinafter referred to as "Contractor") desire to enter into a contract under which Construction Manager will perform construction services relating the above-referenced Projects on behalf of Owner;

WHEREAS Owner and Contractor have agreed to enter into AIA Document A201-2017 Agreement ("Contract") as the basic form for that contract; and

WHEREAS certain terms and conditions of the contract must be modified to comply with applicable laws and policies affecting Owner and Contractor on this project, Owner and Contractor hereby agree to the following amendments to the Contract:

ADDITIONS AND DELETIONS:

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

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503[™], Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), all sections of the Project Manual and Construction Documents (as defined in §1.1.3 below) including Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Any reference to Contract Documents herein shall include the Construction Documents, and any other documents included in the Contract Documents, as amended and/or supplemented for this Project.

§ 1.1.1.1 The Agreement, represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. Any revision, amendment, or modification to the Standard Form of the Agreement shall be valid, binding, and enforceable only if said revision, amendment or modification is made conspicuous by being underlined, lined-through, or highlighted in this Agreement signed by Contractor and the authorized representative of Owner's Board of Trustees. In the event of conflict, terms and conditions contained in the Agreement, shall take precedence over terms and conditions contained in the General Conditions, and the terms and conditions in the General Conditions, shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification signed by Contractor, approved by Owner's Board of Trustees, and signed by the representative of the Owner's Board of Trustees who is authorized to sign contracts. As a material consideration for the making of the Contract, modifications to the Contract shall not be construed against the maker of said modifications. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor.

§ 1.1.2.1 To be effective, all Contract Documents requiring signatures must be signed first by the Contractor and then by the Owner's authorized representative, after approval by Owner's Board of Trustees. If an approved Contract Document requiring Contractor's signature has not been signed, then the missing signature shall be provided within a reasonable period of time. Failure of Contractor to sign an approved Contract Document after notice and a reasonable opportunity to sign shall be considered a material breach of the Contract by Contractor.

(Paragraphs deleted)

§ 1.1.3 The Work; Construction Documents

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project. The Work includes all of Contractor's responsibilities as to all labor, parts, supplies, skill, supervision, transportation services, storage requirements, and other facilities and things necessary, proper or incidental to the carrying out and completion of the terms of the Contract Documents and the Construction Documents and all other items of cost or value needed to produce, construct and fully complete the public Work identified by the Contract Documents and the Construction Documents. "Construction Documents" means: all Drawings, Specifications, geotechnical reports, Addenda, submittals, transmittals, deliverables, instructions to Contractors, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants and which set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project. The Construction Documents shall reflect all agreements between Owner and Architect concerning Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of

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equipment and facilities. Said Construction Documents shall reflect the Owner's educational program and educational specifications, the State educational adequacy standards in 19 TAC Section 61.1040 and the standards set forth in Section 3.1.4 of AIA Document B101-2017. The Architect shall provide Construction Documents which are sufficient for Owner to complete construction of the Project, are free from material defects or omissions, and which shall comply with all applicable laws, ordinances, codes, rules, and regulations, as of the date of issuance of Construction Documents.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

(Paragraphs deleted)

§ 1.1.7 Construction Documents

Construction Documents include representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

[Intentionally deleted.]

§ 1.1.9 Addenda. Addenda are written or graphic instruments issued prior to the execution of the Contract, which modify or interpret the bidding or proposal documents, including Drawings and Specifications, by additions, deletions, clarifications, or corrections. Addenda will become part of the Contract Documents and Construction Documents when the Agreement is executed. The Contractor and subcontractors shall include all addenda items on their copies of the Drawings and Specifications.

§ 1.1.10 All references to "Contractor" shall include "Construction Manager at Risk" as appropriate.

§ 1.1.11 The Owner may retain Program Manager(s) to carry out some of the functions of the administration of the Owner's construction program. The Contractor, Architect, and Program Manager (when applicable) shall cooperate with each other in the performance of their respective functions. The management and reporting systems used by the Owner and/or Program Manager, including the assignment of the Program Manager, may be changed by Owner during the Project.

§ 1.1.12 Approved, Approved Equal, Approved Equivalents, Or Equal The terms "Approved" and "Approved Equal" relate to the substitution of materials, equipment, or procedure in writing by the Architect prior to receipt of bids.

§ 1.1.13 Abbreviations

AIA:	American Institute of Architects. (All references to AIA documents refer to AIA's trademarked documents. Each reference to a specific document shall refer to the document as amended for this Project.)
AIEE:	American Institute of Electrical Engineers
ACI:	American Concrete Institute
AHERA:	Asbestos Hazardous Emergency Response Act
AISI:	American Iron and Steel Institute
AISC:	American Institute of Steel Construction
ANSI:	American National Standards Institute
ASA:	American Standards Association

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ASTM:	American Society of Testing Materials
AWSC:	American Welding Society Code
CERCLA:	Comprehensive Environmental Response, Compensation, and Liability Act
EPA:	Environmental Protection Agency
FS:	Federal Specification
NEC:	National Electrical Code
OSHA:	Occupational Safety and Health Administration
SPR:	Simplified Practice Recommendation
TAS:	Texas Accessibility Standards
UL:	Underwriters Laboratories, Inc.

§ 1.1.14 Bids or Bidding. The terms "Bids" or "Bidding" shall include any kind of competitive purchasing under Texas Government Code Chapter 2269.

§ 1.1.15 Miscellaneous Other Words

§ 1.1.15.1 Business Day. The term "business day" is a day the Owner's Administration Building is scheduled to be open for normal business purposes, unless closed by the Owner's Superintendent of Schools for inclement weather or other reason. Days on which the Administration Building is normally closed are Thanksgiving Break, Winter Break, Spring Break, and Summer Break, as well as other federal, state or local days specified in the calendar approved by the Owner's Board of Trustees on an annual basis. A business day does not include a day on which the Owner's Administration Building is open only for the purposes of conducting candidate filing, early voting, elections, or other special events.

§ 1.1.15.2 Calendar Day. A calendar day is a day on the Gregorian Calendar. The Contract Time is established in calendar days. Extensions of time granted, if any, will be converted to calendar days.

§ 1.1.15.3 Holidays. Owner-approved holidays for Contractor's Work are limited to New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

§ 1.1.15.4 Work Day. Work days are all calendar days except Holidays.

§ 1.1.15.5 Anticipated Weather Days. An allowance of regular Work Days, established as anticipated Work Days lost due to weather delays; said allowance shall be included in Contractor's proposed completion time. Only lost weather days in excess of Anticipated Weather Days shall be considered by Owner for time extensions based upon weather. Section 15.1.5.3 lists required Anticipated Weather Days.

§ 1.1.16 Contract Sum. "Contract Sum" shall have the same meaning as in Section 5.1 of the Agreement (A133-2009), for the Project when the Project is a Construction Manager at Risk Project, and the same meaning as in Article 4 of the Agreement (A101-2017) for the Project.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.1.2 During the course of the Work, should any conflict be found in or between the Contract Documents, the Contractor shall be deemed to have estimated the Work on the basis of the greater quantity or better quality, or the most stringent requirement, unless it shall have obtained an interpretation in writing from the Architect as to what shall govern before the submission of its Proposal. The Architect, in case of such conflict, may interpret or construe the

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documents so as to obtain the most substantial and complete performance of the Work consistent with the Contract Documents and reasonably inferable therefrom, in the best interest of Owner, and the Architect's interpretation shall be final. The terms and conditions of this clause shall not relieve any party of any other obligation under the Contract Documents.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.4 Relation Of Specifications And Drawings. General Requirements in the Specifications govern the execution of all Specifications. Summary paragraphs present a brief indication of the Work, but do not limit the Work as later detailed. The Drawings and Specifications are correlative and have equal authority and priority. Should the Drawings and Specifications have internal inconsistencies, then the Contractor shall base the bids and construction on the more expensive combination of quality and quantity of work indicated. For purposes of construction, the Architect shall determine the appropriate Work, after the Contractor brings the inconsistency to the Architect's attention. Failure to report an inconsistency shall be evidence that Contractor has elected to proceed in the more expensive manner.

§ 1.2.5 Materials, Equipment And Processes. Exact location and arrangement of the various pieces of equipment specified shall be determined with the approval of the Architect after equipment has been selected and/or as the Work progresses. All equipment shall, insofar as possible, be installed in such a manner as will not interfere with architectural or structural portions of the building. Should changes become necessary because of a failure of the Contractor to comply with the Contract Documents which results in equipment requiring more area than shown on the Contract Documents, the Contractor shall be fully responsible for completing any required modifications or eliminating any interferences. Where in the Drawings and Specifications, certain products, manufacturer's trade names, or catalog numbers are specified, it is done for the express purpose of establishing a standard of function, dimension, appearance, and quality of design in harmony with the Work, and is not intended for the purpose of limiting competition. Materials or equipment shall not be substituted unless the Architect has specifically accepted such substitution for use on this Project. When more than one material, process, or brand is specified for a particular item of Work, the choice shall be the Contractor's. The final selection of color and pattern will be made by the Owner from the range available within the option selected by the Contractor, unless the item is specified to match a specific color or sample furnished. Where particular items are specified, products of those named manufacturers are required unless Contractor submits for consideration proposed substitutions of materials, equipment or processes from those set out in the Contract Documents. Submittals of proposed substitutions should contain sufficient information to allow the Architect and Owner to determine if the proposed substitution is in fact equal to or better than the requirements in the Contract Documents. The Architect shall review and respond to proposed substitutions within fifteen (15) days of receipt. Contractor shall bear all risk caused by submitting substitutions, including all costs. The Owner may approve substitutions only when the substitution is clearly provided by the Contract to be equal in performance characteristics to the requirements of the Contract Documents, equally compatible with the existing installations and complementary to the architectural design for the Work. Certain specified construction and equipment details may not be regularly included as part of the named manufacturer's standard catalog equipment, but shall be obtained by the Contractor from the manufacturer as required for the proper evaluation and/or functioning of the equipment. Reasonable minor variations in equipment are expected and will be acceptable, if approved by the Architect and Owner, however, indicated and specified performance and material requirements are the minimum. The Owner and the Architect reserve the right to determine the equality of equipment and materials that deviate from any of the indicated and specified requirements.

§ 1.2.6 Standards And Requirements. When the Contract Documents refer to standards, building codes, manufacturers' instructions, or other documents, unless otherwise specified, then the current edition as of the date of execution of the Agreement by the last party to execute said Agreement shall apply. It shall be the responsibility of the Architect to address revisions or amendments to applicable codes or standards which arise after the date of execution of the Agreement and until Final Completion, pursuant to the terms of the Agreement between Owner and Architect. Requirements of public authorities apply as minimum requirements only and do not supersede more stringent specified requirements.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity, the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Construction Documents

§ 1.5.1 All ownership rights, whether common law, statutory, or other reserved rights, including copyright ownership of the Construction Documents, are controlled by the Agreement between the Owner and the Architect. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Construction Documents. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of any reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are granted a limited license to use and reproduce the Construction Documents provided to them, subject to any protocols established pursuant to Section 1.7, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Construction Documents. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect’s consultants. All copies of the Construction Documents, except the Contractor’s record set, shall be returned or suitably accounted for to the copyright holder upon completion of the Work.

§ 1.6 Notice

§ 1.6.1 Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice, or if sent by electronic facsimile transmission, to the last business number known to the party giving notice, with electronic confirmation of receipt; or, if sent by electronic mail, to the email address of the Owner’s or Contractor’s designated representative, with electronic confirmation of receipt.

[Intentionally deleted.]

(Paragraph deleted)

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

[Intentionally deleted.]

(Paragraphs deleted)

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the independent school district identified in the Contract Documents. The Board of Trustees, by majority vote, is the only representative of the Owner, an independent school district, having the power to: enter into a contract; amend a contract, including but not limited to AIA Document A-133 Exhibit A; approve changes in the scope of Work; approve and execute a Change Order or Construction Change Directive modifying the Contract Sum or Guaranteed Maximum Price; agree to an extension to the date of Substantial or Final Completion; or terminate a contract. The Board will act as soon as reasonably possible to avoid undue delays. The Board designates authorized representatives to act on its behalf for day-to-day operations under the Contract. Unless otherwise designated in the Contract Documents, Owner’s authorized representative shall be the Superintendent of Schools, who may delegate responsibilities as appropriate. Owner’s Board of Trustees hereby delegates to the Superintendent of Schools or designee the authority to approve changes to the Work where such changes are within the Owner’s contingency or the

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Contractor's contingency. Any such change shall be confirmed in writing between the Contractor and Owner's Superintendent or designee, and notice of such approved changes shall be given to the Board at its next regular meeting. Except as otherwise provided in the Contract Documents, the Architect does not have such authority. Neither Architect nor Contractor may rely upon the direction of any employee of Owner who has not been designated in writing by the Superintendent or Board of Trustees; Owner shall not be financially responsible for actions taken by the Architect or Contractor in reliance upon direction from unauthorized persons.

§ 2.1.2 It shall be distinctly understood that by virtue of this Contract, no mechanic, contractor, material person, artisan, or laborer, skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the buildings or any of the improvements of whatsoever nature or kind so erected or to be erected by virtue of this Contract or upon any of the land on which said buildings or any of the improvements are so erected, built, or situated, such property belonging to a political subdivision of the State of Texas. It shall be further understood that this Contract is not written for the benefit of third parties.

§ 2.1.3 The Owner shall require the Contractor and the Architect to meet periodically at mutually-agreed-upon intervals, for the purpose of establishing procedures to facilitate cooperation, communication, and timely responses among the participants. By participating in this arrangement, the parties do not intend to create additional contractual obligations or modify the legal relationships which may otherwise exist.

§ 2.1.4 The Owner may require that the Contractor use and/or respond to certain Owner-furnished forms or inquiries during the course of the Project. From time to time, there may be future revisions, changes, additions or deletions to these forms. The fact that the Owner modifies and increases reasonable reporting requirements shall not serve as the basis for a claim for additional time or compensation by the Contractor.

§ 2.1.5 The Contractor stipulates and agrees that the Owner has no duty to discover any design errors or omissions in the Drawings, Plans, Specifications and other Construction Documents, and has no duty to notify Contractor of same. By entering into the Contract Documents or any Agreement with any Architect, Owner does not warrant the adequacy and accuracy of any Drawings, Plans, Specifications or other Construction Documents.

§ 2.2 Owner's Financial Arrangements

§ 2.2.1 The Owner, being a public body under the laws of the State of Texas, must have adequate funds and/or financing as provided by law prior to award and execution of the Contract Documents.

§ 2.2.2 *[Intentionally deleted.]*

§ 2.2.3 *[Intentionally deleted.]*

§ 2.2.4 *[Intentionally deleted.]*

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor whose status under the Contract Documents shall be that of the Architect. Owner shall notify Contractor if a successor architect has been employed by Owner.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. Other than the metes and bounds noted in the survey, if any, Owner does not guarantee or warrant the accuracy of surveys provided, including the locations of utility lines, cables, pipes or pipelines, or the presence or absence of easements.

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§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness after receiving the Contractor's written request for such information or services. Absent such timely notification, any Claim based upon lack of such information or services shall be waived.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor at least one copy of the Construction Documents, as provided for in the Project Manual, for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct defective Work, fails to correct Work that is not in accordance with the requirements of the Contract Documents or the Construction Documents as required by Section 12.2, or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3. The authorized Owner's representative having the legal right to stop the Work shall be limited to the Owner's Superintendent of Schools.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. The Architect shall, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's and other consultants' additional services, if any, made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, then the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, then the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative, and includes the Construction Manager at Risk, if applicable.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, activities of the Owner (or Owner's Program Manager, if applicable), or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.1.4 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

- .1 that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;
- .2 that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

- .3 that it is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental, public, and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and
- .4 that the execution of the Contract and its performance thereof are within its duly-authorized powers.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents. The Contractor represents and warrants by submission of a Proposal that it has carefully examined the Contract Documents, any soil test reports, drainage studies, geotechnical or other reports, and the site of the Work, and that, from its own investigations, it has satisfied itself as to the nature and location of the Work, the character, quality and quantity of surface and subsurface materials likely to be encountered, the character of equipment and other facilities needed for the performance of the Work, the general and local conditions and all other materials which may in any way affect the Work or its performance. Should the Contractor find discrepancies, omissions or conflicts within the Contract Documents, or be in doubt as to their meaning, the Contractor shall at once notify in writing the Architect and Owner, and Architect will issue a written addendum to all parties that is consistent with the Owner's Scope of the Work. The Contractor shall not be entitled to any additional time or compensation for Contractor's failure to visit the site, or for any additional Work caused by the Contractor's fault, by improper construction, or by Contractor's failure to visit the site or to carefully study and compare the Contract Documents prior to execution of the Work.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. Contractor shall not perform any Work involving an error, inconsistency, or omission without further instructions to Contractor or revised Construction Documents from the Architect.

§ 3.2.3 Neither the Owner nor the Contractor is required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor has knowledge that any of the products or systems specified will perform in a manner that will limit the Contractor's ability to satisfactorily perform the Work or to honor its warranty, or will result in a limitation of or interference with the Owner's intended use, then the Contractor shall promptly notify the Architect and Owner in writing, providing substantiation for its position. Any necessary changes, including substitution of materials, shall be accomplished by appropriate Modification. If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. Contractor shall take field measurements, verify field conditions, and shall carefully compare them to the Construction Documents. The Contractor shall be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities when the Contractor recognized or should have recognized such error, inconsistency, omission or difference and failed to report it to the Architect. Contractor shall not be entitled to additional compensation for additional Work caused by Contractor's failure to carefully study and compare the Construction Documents prior to the execution of the Work.

§ 3.2.5 Prior to performing any Work, and only if applicable, Contractor shall locate all utility lines as shown and located on the plans and specifications, including telephone company lines and cables, sewer lines, water pipes, gas lines, electrical lines, including, but not limited to, all buried pipelines and buried telephone cables, and shall perform any Work in such a manner so as to avoid damaging any such lines, cables, pipes, and pipelines. In addition, Contractor shall independently determine the location of same. Contractor shall be responsible for any damage done to such utility lines, cables, pipes and pipelines during its Work, and shall be responsible for any loss, damage, or extra expense resulting from such damage. Repairs shall be made immediately to restore all service. Any delay for such break shall be attributable to Contractor. In addition, and only if applicable, Contractor shall review the appropriate AHERA and hazardous materials surveys for the particular campuses involved in the Project, and shall notify all Subcontractors and Sub-subcontractors of the necessity to review said surveys. Contractor shall perform any Work in such a manner as to avoid damaging, exposing, or dislodging any asbestos-containing materials that are clearly identified and located in AHERA and other hazardous material surveys. Before performing any portion of the Work, the Contractor shall fully investigate all physical aspects of the Project Site and verify all dimensions, measurements, property lines, grades and elevations, existing improvements, and general suitability of existing conditions at the Project site. If applicable, Contractor shall comply with U.S. Environmental Protection Agency rules concerning renovating, repairing, or painting work in schools built prior to 1978 involving lead-based paint.

§ 3.2.6 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for information, where such information was available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation. If, in the reasonable opinion of the Architect, the Contractor does not make reasonable effort to comply with any of the above requirements of the Contract Documents and this causes the Architect or its Consultants to expend an unreasonable amount of time in the discharge of the duties imposed by the Contract Documents, then the Contractor shall bear the cost of compensation for the Architect's additional services made necessary by such failure.

§ 3.2.7 The Contractor shall arrange meetings prior to commencement of the Work of all major Subcontractors to allow the Subcontractors to demonstrate an understanding of the Construction and Contract Documents to the Architect and to allow the Subcontractors to ask for interpretations, when necessary. The Contractor and each Subcontractor shall evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed, including:

- .1 The location, condition, layout, drainage and nature of the Project site and surrounding areas;
- .2 Generally prevailing climatic conditions;
- .3 Anticipated labor supply and costs;
- .4 Availability and cost of materials, tools and equipment; and
- .5 Other similar issues.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects in writing to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or

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on behalf of, the Contractor or any of its Subcontractors. As part of that responsibility, Contractor shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Contractor's employees, subcontractors, and all other persons carrying out the Contract. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, while on Owner's property, to refrain from committing any criminal conduct, using tobacco products, possessing or drinking alcoholic beverages, possessing or using illegal drugs or any controlled substance, carrying or possessing weapons, speaking profane and/or offensive language, or engaging in any inappropriate interactions of any nature whatsoever with students and employees, including talking, touching, staring or otherwise contributing to a hostile or offensive environment for Owner's students and employees. All areas of campus, other than the defined construction area, shall be off limits to Contractor's forces, unless their work assignment specifies otherwise. Contractor shall also require adequate and appropriate dress and identification of Contractor's employees, subcontractors, and all other persons carrying out the Work. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to wear identification tags on the front of their persons during all times that they are on Owner's property. Such identification tags shall contain a current photograph and the worker's full name in a typeface large enough to be seen from a reasonable distance. The Contractor shall further ensure that no on-site fraternization shall occur between personnel under the Contractor's and Subcontractor's direct or indirect supervision and Owner's students or employees and the general public. Failure of an individual to adhere to these standards of conduct shall result in the immediate removal of the offending employee from all construction on any of Owner's property. Repeated removal of Contractor's or Contractor's subcontractor's forces, or one serious infraction, shall constitute a substantial breach of the Agreement justifying the immediate termination by Owner pursuant to Article 14. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to park their personal motor vehicles on Owner's property only in the parking places designated by the Owner's campus principal. Any vehicles not parked in the appropriate locations shall be towed at the vehicle owner's sole expense. Contractor shall follow, and shall require all employees, agents or subcontractors to follow, the tree ordinance of the municipality in which the Project is located. In addition, if not covered by the municipal tree ordinance, Contractor shall barricade and protect all trees on the Project, which shall be included in the Cost of the Work. Contractor shall institute a theft deterrence program designed to restrict construction worker access to properties of Owner that are currently in use, to maintain supervision of Contractor's and Contractor's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from Contractor's forces or Contractor's subcontractor's forces' actions, omissions, or failure to secure the Work or connecting or adjacent property of Owner.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall properly and efficiently coordinate the timing, scheduling and routing of all Work performed by all sub-contractors and sub-sub-contractors.

§ 3.3.5 To the extent that any portion of the Work requires a trench excavation exceeding five (5) feet in depth, in accordance with Texas Health and Safety Code Section 756.023(a), Contractor shall fully comply, and shall require any applicable subcontractor to comply, with:

- .1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work;
- .2 The special shoring requirements, if any, of the Owner; and
- .3 Any geotechnical information obtained by Owner for use by the Contractor in the design of the trench safety system.
- .4 Trench excavation safety protection shall be a separate pay item, and shall be based on linear feet of trench excavated. Special shoring requirements shall also be a separate pay item, and shall be based on the square feet of shoring used.

§ 3.3.6 The Contractor shall review Subcontractor safety programs, procedures, and precautions in connection with performance of the Work. However, the Contractor's duties shall not relieve any Subcontractor(s) or any other person or entity (e.g., a supplier), including any person or entity with whom the Contractor does not have a contractual

relationship, of their responsibility or liability relative to compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances which shall include the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. The foregoing notwithstanding, the requirements of this Paragraph are not intended to impose upon the Contractor any additional obligations that the Contractor would not have under any applicable state or federal laws, including, but not limited to, any rules, regulations, or statutes pertaining to the Occupational Safety and Health Administration.

§ 3.3.7 It is understood and agreed that the relationship of Contractor to Owner shall be that of an independent contractor. Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Contractor the agent, servant or employee of the Owner; or 2) create any partnership, joint venture, or other association between Owner and Contractor. Any direction or instruction by Owner or any of its authorized representatives in respect of the Work shall relate to the results the Owner desires to obtain from the Work, and shall in no way affect Contractor's independent contractor status.

§ 3.3.8 Pursuant to Texas Labor Code Sec. 214.008, the Contractor and any subcontractor on the Project shall properly classify, as an employee or an independent contractor, in accordance with Texas Labor Code Chapter 201, any individual the Contractor or subcontractor directly retains and compensates for services performed in connection with this Agreement. Any Contractor or subcontractor who fails to properly classify such an individual may be subject to the penalties of Texas Labor Code Sec. 214.008(c).

§ 3.4 Labor and Materials

§ 3.4.1 These Contract Documents shall not be construed to deny or diminish the right of any person to work because of the person's membership or other relationship status with respect to any organization. Texas Government Code § 2269.054. Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for qualified, careful, and efficient workers and labor, eligible to work in accordance with state and federal law. Contractor shall appropriately classify all workers in accordance with the Fair Labor Standards Act, its implementing regulations, and Texas Labor Code Section 214.008. In addition, unless otherwise provided in the Contract documents, the Contractor shall provide and pay for materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Before ordering any material or doing any Work, Contractor shall verify all dimensions and check all conditions in order to assure Contractor that they are the same as those in the Drawings, Specifications, and other Construction Documents. Any inconsistency shall be brought to the attention of the Architect. In the event that discrepancies occur between ordered material and actual conditions and Architect was not notified beforehand, then costs to correct such discrepancies shall be borne by Contractor.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the prior written consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.2.1 After evaluation by the Architect, substitutions and alternates may be rejected by the Architect without explanation and will be considered only under one or more of the following conditions: (i) the proposal is required for compliance with interpretation of code requirements or insurance regulations then existing; (ii) specified products are unavailable through no fault of the Contractor; (iii) and when, in the judgment of the Architect, a substitution would be substantially in the Owner's best interests, in terms of cost, time, or other considerations.

§ 3.4.2.2 The Contractor must submit to the Architect: (i) a full explanation of the proposed substitution and submittals of all supporting data, including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation for the substitution; (ii) a written explanation of the reasons the substitution should be considered, including the benefits to the Owner and the Work in the event the substitution is acceptable; (iii) the adjustment, if any, in the Contract Sum; (iv) the adjustment, if any, in the time of completion of the Contract and the construction schedule; and (v) an affidavit stating (a) the proposed substitution conforms to and meets all requirements of the pertinent Specifications and the requirements shown on the Drawings, and (b) the Contractor accepts the warranty and will coordinate the Work to be complete in all respects, as if originally specified by the Architect. Proposals for substitutions shall be submitted in writing to the Architect in

sufficient time to allow the Architect no less than fifteen (15) working days for review. No substitutions will be considered or allowed without the Contractor's submittals of complete substantiating data and information.

§ 3.4.2.3 Whether or not the Architect accepts any proposed substitution, the Contractor shall reimburse the Owner for any fees charged by the Architect or other consultants for evaluating each proposed substitution.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. THE CONTRACTOR RELEASES, INDEMNIFIES AND HOLDS HARMLESS THE OWNER FOR CONTRACTOR'S FORCES' NON-COMPLIANCE WITH OWNER'S DRUG-FREE, ALCOHOL-FREE, WEAPON-FREE, HARASSMENT-FREE, AND TOBACCO-FREE ZONES, CONTRACTOR'S FORCES' NON-COMPLIANCE WITH CRIMINAL LAW, OR CONTRACTOR'S OR CONTRACTOR'S FORCES' NON-COMPLIANCE WITH IMMIGRATION LAW OR REGULATIONS. Any individual found by Owner to have violated these restrictions is subject to permanent removal from the Project, at Owner's request. Contractor shall place similar language in its subcontract agreements, requiring its Subcontractors and Sub-subcontractors to be responsible for their own forces and Contractor shall cooperate with the Owner to ensure Subcontractor and Sub-subcontractor compliance.

§ 3.4.4. Including, but not limited to, the specific requirements of Article 10, Contractor, its subcontractors and vendors shall bear responsibility for compliance with all federal, state and local laws, regulations, guidelines, and ordinances pertaining to worker safety and applicable to the Work. Contractor further recognizes that the Owner and Architect do not owe the Contractor any duty to supervise or direct its work so as to protect the Contractor from the consequences of its own conduct.

§ 3.4.5 Pursuant to Texas Education Code Section 44.034, Contractor must give advance written notice to the Owner if the Contractor or an owner or operator of the Contractor has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Contractor failed to give such notice or misrepresented the conduct resulting in the conviction. This paragraph requiring advance notice does not apply to a publicly-held corporation.

§ 3.4.6 CRIMINAL HISTORY CHECKS

§ 3.4.6.1 So that Owner can obtain the national criminal history record information required by Texas Education Code Section 22.08341 on all "covered employees" (as defined in Section 3.4.6.3) of Contractor, its subcontractors, or any subcontracting entities who will perform the Work, Contractor shall submit to Owner the name and all necessary identifying information necessary to enable Owner to obtain the national criminal history information on those covered employees before they begin the Work. Contractor's submission will include the employee's written authorization for Owner to obtain such criminal history information. Owner may, in its sole discretion, prohibit the use of any employee to perform the Work after its review of the criminal history information, but cannot disclose the criminal history information to Contractor. Contractor shall reimburse Owner for Owner's costs incurred in obtaining the criminal history information.

§ 3.4.6.2 Contractor will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to work on the Project. If Contractor receives information that a covered employee has a reported disqualifying criminal history, then Contractor will immediately remove the covered employee from the Project and notify the Owner in writing within three business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Contractor agrees to discontinue using that covered employee to provide services on Owner's Project. If Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees, Contractor will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 3.4.6.3 For the purposes of this Section, "covered employees" means employees, agents or applicants of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. The definition of "covered employees" does not include individuals working on the Work if the Work: (1.) does not involve the construction, alteration, or repair of an instructional facility as defined herein; (2.) involves construction of a new instructional facility and the person's duties related to other contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or (3.) involves an existing

instructional facility and: (a.) the work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and (b.) the contracting entity adopts a policy prohibiting employees, contractors, and subcontractors from interacting with students or entering areas used by students, informs employees, contractors, and subcontractors of the policy, and enforces the policy at the work area. "Disqualifying criminal history" means: any conviction or other criminal history information designated by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification under Texas Education Code Section 21.060 and 19 Texas Administrative Code § 249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school; a felony offense under Texas Penal Code Title 5 Offenses Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure chapter 62; or an equivalent offense under federal law or the laws of another state; or a felony violation of Texas Penal Code Section 43.24 related to the sale, distribution or display of harmful materials to a minor. The term "instructional facility" means real property, and improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under the state curriculum for kindergarten through grade 12.

§ 3.4.6.4 Contractor's violation of this section shall constitute a substantial failure under Article 14.

§ 3.4.7 PREVAILING WAGE RATES

§ 3.4.7.1 Contractor, Contractor's Subcontractors and Sub-subcontractors shall pay all workers not less than the general prevailing rate of per diem wages for work of a similar character where the Project is located, as detailed in the "Minimum Wage Schedule" attached to this Agreement. Wages listed are minimum rates only. However, no claims for additional compensation above the Contract Sum shall be considered by the Owner because of payments of wage rates in excess of the applicable rate provided herein. Texas Government Code Section 2258.001 *et seq.*

§ 3.4.7.2 Contractor shall forfeit, as a penalty to the Owner, \$60 for each laborer, worker or mechanic employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the Contract Documents.

§ 3.4.7.3 Owner reserves the right to receive and review payroll records, payment records, and earning statements of employees of Contractor, and of Contractor's Subcontractors and Sub-subcontractors."

"§ 3.4.7.4 In executing the Work under the Contract Documents, Contractor shall comply with all applicable state and federal laws, including but not limited to, laws concerned with labor, equal employment opportunity, safety and minimum wages."

"§ 3.4.7.5 If no schedule is attached, then the parties shall use the wage rate determined by the US Department of Labor in accordance with the Davis-Bacon Act, 40 U.S.C. Section 276a, (which can be accessed on the internet at <https://www.wdol.gov/> or <https://beta.sam.gov/>) effective as of the date of this Agreement.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. The Contractor further warrants that Contractor shall perform the Work in a good and workmanlike manner, continuously and diligently in accordance with generally accepted standards of construction practice for construction of projects similar to the Project, except to the extent the Contract Documents expressly specify a higher degree of finish or workmanship, in which case the standard shall be the higher standard. All material shall be installed in a true and straight alignment, level and plumb; patterns shall be uniform; and jointing of materials shall be flush and level, unless otherwise directed in writing by the Architect. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance (unless such maintenance is Contractor's responsibility), improper operation, or normal wear and tear and normal usage, but such exclusions shall only apply after Owner has taken occupancy of the damaged or defective point of the Project. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. Notwithstanding anything in the Contract Documents to the contrary, Owner and Contractor expressly agree that the warranties stated

herein shall mean the individual warranties associated with each particular Work within the Project, and each such individual warranty shall run from the applicable Work's Final Completion date (unless otherwise expressly provided in the applicable Contract Documents for that particular Work). Contractor's express warranty is in addition to, and not in lieu of, Owner's other available remedies. All required warranties on equipment, machinery, materials, or components shall be submitted to the Architect on the manufacturer's or supplier's approved forms for delivery to the Owner. The warranties set out in this Subparagraph are not exclusive of any other warranties or guarantees set out in other places in the Contract Documents or expressed or implied under applicable law.

§ 3.5.2 Contractor shall certify that the Project has been constructed in general conformance with the Architect's or Engineer's plans, specifications, and Construction Documents, as modified from time to time pursuant to the terms of the Contract Documents. Contractor shall fully complete a "Certification of Project Completion" as required by 19 Texas Administrative Code Section 61.1040.

§ 3.5.3 In the event of failure of materials, products, or workmanship, either during construction or the warranty period, the Contractor shall take appropriate measures to ensure correction of defective Work or replacement of the defective items, without cost to the Owner. Such warranty shall be maintained notwithstanding that certain systems may be activated prior to Substantial Completion as required for the satisfactory completion of the Project. Upon written notice from the Owner or Architect, the Contractor shall promptly remedy defects as covered by Contractor's warranty. If Contractor does not respond to the written notice, either by beginning corrective work or notifying Owner in writing regarding when corrective work will begin, within ten days of Contractor's receipt of the written notice, then the Owner may take measures to correct the Work and Contractor will be obligated to reimburse Owner's costs. The provisions of this subparagraph shall be in addition to, and not in lieu of, any other rights and remedies available to the Owner.

§ 3.5.4 When deemed necessary by the Owner and prior to installation of any item specifically made subject to a performance standard or regulatory agency standard under any provision of the Contract Documents, Contractor shall furnish proof of conformance to the Architect. Proof of conformance shall be in the form of:

- .1 an affidavit from the manufacturer certifying that the item is in conformance with the applicable standards; or
- .2 an affidavit from a testing laboratory certifying that the product has been tested within the past year and is in conformance with the applicable standards; or
- .3 such further reasonable proof as is required by the Architect.

§ 3.5.5 The Contractor agrees to issue in the name of the owner, or assign to the Owner at Final Completion of the Work, such assignment to be effective no later than Final Completion, for any and all material, equipment, fixtures and furniture (if supplied or installed by Contractor or its subcontractors), other special warranties, and manufacturers' warranties relating to materials and labor used in the Work. Contractor further agrees to perform the Work in such manner so as to preserve any and all manufacturers' warranties. All forms will be required to be submitted prior to Final Payment.

§ 3.5.6 The warranties of Contractor provided in Section 3.5 shall in no way limit or abridge the warranties of the suppliers of equipment and systems which are to comprise a portion of the Work and all such warranties shall be in form and substance as required by the Contract Documents. Contractor shall take no action or fail to act in any way which results in the termination or expiration of such third party warranties or which otherwise results in prejudice to the rights of Owner under such warranties. Contractor agrees to provide all notices required for the effectiveness of such warranties and shall include provisions in the contracts with the providers and manufacturers of such systems and equipment whereby Owner shall have a direct right, but not a duty, of enforcement of such warranty obligations.

§ 3.5.7 Contractor shall maintain a complete and accurate schedule of the date(s) of Substantial Completion, the date(s) of Final Completion, and the dates upon which the warranty under Section 12.2 herein on each phase or building will expire. Contractor shall provide a copy of such schedules to Owner and Architect. Prior to termination of the warranty period under Section 12.2 herein, Contractor shall accompany Owner and Architect on re-inspection of each Work in the Project and Contractor shall be responsible for correcting any warranty items which are observed or reported during the warranty period under Section 12.2 herein. Contractor shall prosecute such warranty work under

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Section 12.2 herein without interruption until accepted by Owner and Architect, even though such work should extend beyond the warranty period under Section 12.2 herein. If Contractor fails to provide the schedules to Owner and Architect, Contractor's warranty obligation described herein shall continue until such inspection is conducted and deficiencies are corrected.

§ 3.5.8 Prior to receipt of Final Payment, Contractor shall:

- .1 Obtain duplicate original warranties, executed by all subcontractors, making the dates of beginning of the warranties the Date of Final Completion; and the warranties of suppliers and manufacturers, making the dates of beginning of the warranties no later than the Date of Final Completion;
- .2 Verify that the documents are in proper form and contain full information;
- .3 Co-sign warranties when required;
- .4 Bind all warranties in commercial quality 8-1/2 X 11 inch three-ring binder, with hardback, cleanable, plastic covers;
- .5 Label the cover of each binder with a typed or printed title labeled "WARRANTIES", along with the title of the Project; name, address and telephone number of Contractor; and name of its responsible principal;
- .6 Include a Table of Contents, with each item identified by the number and title of the specification section under which the product is specified;
- .7 Separate each warranty with index tab sheets keyed to the Table of Contents listing; and
- .8 Deliver warranties and bonds in the form described above, to the Architect who will review same prior to submission to the Owner.

§ 3.6 Taxes

Owner is an exempt entity under the tax laws of the State of Texas. Texas Tax Code § 151.309; 34 TAC § 3.322. The Owner represents that this Project is eligible for exemption from the State Sales Tax on tangible personal property and material incorporated in the Project, provided that the Contractor fulfills the requirements of the Texas Tax Code § 151.309, § 151.310, § 151.311 and 34 TAC § 3.291; 3.287. For the purpose of establishing exemption, it is understood and agreed that the Contractor may be required to segregate materials and labor costs at the time a Contract is awarded. Contractor will accept a Certificate of Exemption from the Owner, pursuant to Texas Tax Code § 151.054(e); § 151.155; and 34 TAC § 3.287. Contractor shall obtain Certificates of Resale from Contractor's suppliers. Texas Tax Code § 151.154, 34 TAC § 3.285. Failure of Contractor or any Sub-Contractor to obtain Certificates of Resale from their suppliers shall make the Contractor or Sub-Contractor responsible for absorbing the tax, without compensation from Owner. Contractor shall pay all necessary local, county and state taxes, income tax, compensation tax, social security and withholding payments as required by law. CONTRACTOR HEREBY RELEASES, INDEMNIFIES, AND HOLDS HARMLESS OWNER FROM ANY AND ALL CLAIMS AND DEMANDS MADE AS A RESULT OF THE FAILURE OF CONTRACTOR OR ANY SUBCONTRACTOR TO COMPLY WITH THE PROVISIONS OF ANY OR ALL SUCH LAWS AND REGULATIONS.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 After Architect has filed the plans and specifications with the Texas Department of Licensing and Regulation, Architect shall notify Contractor that Contractor may make and submit the applications for the building permit. The Owner shall pay the municipality directly for the building permit and all other development "impact" fees, if any. The Contractor shall continue to be responsible for payment of other permits, governmental fees, licenses, and inspections necessary for proper execution of the Contract and which are legally required when bids or proposals are received. Such fees and expenses shall only be reimbursable to Contractor if expressly agreed to herein.

§ 3.7.1.1 The Owner shall pay directly to the governing authority the cost of all permanent property utility assessments and similar connection charges.

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§ 3.7.1.2 The Contractor shall pay directly all temporary utility charges, tap charges, and water meter charges, without reimbursement from Owner. After consultation with the Owner, the Contractor shall also obtain all permits and approvals, and pay all fees and expenses, if any, associated with National Pollutant Discharge Elimination System (NPDES) regulations administered by the Environmental Protection Agency (EPA) and local authorities, if applicable, that require completion of documentation and/or acquisition of a "Land Disturbing Activities Permit" for the Project. Also after consultation with the Owner, the Contractor shall obtain all permits and approvals, and pay all fees and expenses, if any, associated with Storm Water Pollution Prevention and Pollution Control Plan (SWPPP) regulations administered by the Texas Commission on Environmental Quality (TCEQ) and local authorities. Contractor's obligations under this Section may or may not require it to obtain or perform engineering services during the pre-construction phase to prepare proper drainage for the construction sites. Any drainage alterations made by Contractor during the construction process, which require the issuance of a permit, shall be at Contractor's sole cost. Reimbursable expenses shall not include any fines or penalties assessed against the Contractor, Contractor's subcontractors, the Project, or the Owner.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. In addition, Contractor shall authorize posting of any notices required of Owner pursuant to Texas Business and Commerce Code, Section 16.0001, or any notices concerning the Workers Compensation insurance carried by other parties involved in the Project, including without limitation, Architect, at the same location where Contractor posts notices regarding Workers Compensation. If applicable, the Contractor shall procure and obtain all bonds required of the Owner or the Contractor by the municipality in which the Project is located or by any other public or private body with jurisdiction over the Project. In connection with such bonds, the Contractor shall prepare all applications, supply all necessary back-up material and furnish the surety with any required personal undertakings. The Contractor shall also obtain and pay all charges for all approvals for street closings, traffic control, parking meter removal and other similar matters as may be necessary or appropriate from time to time for the performance of the Work."

§ 3.7.3 If the Contractor performs Work when Contractor knows or reasonably should have known it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, the Contract Documents, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than three (3) business days after first observance of the conditions. Contractor agrees that this is a reasonable notice requirement. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially, report findings and a recommended resolution in writing to Owner and Contractor. If Owner's Board of Trustees or Board's designee and Contractor cannot agree on an equitable adjustment to the Contract Sum or Contract time, then either party may pursue alternative dispute resolution as provided for in Article 15 within ninety (90) days of the Architect's recommendation. If such conditions will cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, the Architect will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect in writing. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.7.6 The Contractor shall be responsible for timely notification to and coordination with all utility companies regarding the provision of services to the Project. The Contractor shall inform the Architect at once when the Owner's

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participation is required, and the Architect shall immediately notify the Owner. Connections for temporary and permanent utilities and payment for temporary utilities services required for the Work, whether the Work is new construction or renovation of an existing facility, are the responsibility of the Contractor unless otherwise agreed. If the Work is new construction, then payment for temporary and/or permanent utility services shall be the responsibility of the Contractor until Substantial Completion.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection, unless required to do so by the terms of the Construction Documents.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum, unless required to do so by the terms of the Construction Documents, shall be adjusted accordingly. The amount of the adjustment shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.8.4 When performing Work under allowances, Contractor shall solicit and receive not less than three written proposals and shall provide the Work as directed by the Architect, upon Owner's written approval, on the basis of the best value to the District.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. In addition, the Contractor may employ a project manager and necessary assistants who may supervise several Project sites. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be similarly confirmed in writing. Other communications shall be similarly confirmed on written request in each case. Questions about plan interpretation or directions shall be submitted to the Architect in the form of a written request for information and the Architect shall respond to such request for information in a reasonable and timely fashion. Contractor's selection of project manager or superintendent(s) shall be approved by Owner, and Contractor shall not replace the project manager or superintendent(s) without Owner's consent or until a replacement project manager or superintendent(s) has been selected in accordance with this Section. The Owner may reject or require removal of any job superintendent, project manager or employee of the Contractor, Subcontractor or Sub-Subcontractor involved in the Project. Contractor shall provide an adequate staff for the proper coordination and expedition of the Work. Owner reserves the right to require Contractor to dismiss from the Work any employee or employees that Owner may deem incompetent, careless, insubordinate, or in violation of any provision in these Contract Documents. This provision is applicable to Subcontractors, Sub-Subcontractors and their employees.

§ 3.9.2 [*Intentionally deleted.*]

§ 3.9.3 Contractor's superintendent shall be present full-time on the site as soon as possible after commencement of the Work, and shall remain assigned to this Work, and present on the site during performance of the Work, throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion pursuant to Section 9.8, have been completed or corrected. From Substantial Completion until Final Completion, the superintendent shall be on the site as necessary to ensure that Final Completion occurs within 30 days of Substantial Completion.

§ 3.9.4 Owner shall be notified not less than 24 hours before any time that superintendent will not be present at the site for any reason except periodic illness. If the reason is due to illness, then Owner shall be notified at the beginning of that day. Owner shall be notified of the identity of the acting superintendent. In the event the superintendent is absent from the site and notice has not been provided nor has an acting superintendent been assigned to the Work, then an amount equal to the superintendent's daily rate shall be deducted from the amount owed to the Contractor under general conditions for such day.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The schedule shall not interfere with the operation of Owner's existing facilities and operations without Owner's prior written approval.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall prepare and submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.10.4 The Contractor shall hold weekly progress meetings at the Project Site, or at such other time and frequency as are acceptable to the Owner. Progress of the work shall be reported at said meetings with reference to Contractor's construction schedule. The Contractor shall submit to the Architect with each monthly application for payment a copy of the progress schedule showing all modifications required, and shall take whatever corrective action is necessary to assure that the project completion schedule is met at no additional cost to Owner, except as allowed herein. In the event that Contractor shall fall behind schedule at any time, Contractor shall develop and deliver a recovery plan to the Owner with a recovery schedule and a program describing the additional manpower, overtime, material expediting, resequencing of the Work and other steps Contractor shall take to meet the requirements of the Contract. Contractor shall not be entitled to compensation from the Owner or any increase in the Contract Sum for the schedule recovery efforts. No approval or consent by the Owner of any plan for resequencing or acceleration of the Work submitted by Contractor shall constitute a waiver by Owner of any damages or losses which Owner may suffer by reason of such resequencing or the failure of Contractor to meet the Substantial Completion Date or the Final Completion Date.

§ 3.11 Documents and Samples at the Site

The Contractor shall maintain and make available at all times, at the Project site, the Construction Documents, including Change Orders, Construction Change Directives, field test records (including environmental inspection and test records), inspection certificates or records, manufacturers' certificates, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner at all times, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.11.1 In addition to any other requirement in the Contract Documents and prior to installation, Contractor shall furnish or cause a subcontractor to furnish, for the Owner's and Architect's written approval, a physical sample of each specified item, product, fixture, or device which is visible by the general public and/or attached to an architecturally-finished surface. Samples shall be suitably labeled, adequately protected, and properly stored at the site. Samples which are approved and undamaged will be considered to be suitable for incorporation into the Work.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. Specific dimensions, quantities, installation and performance of equipment and systems in compliance with the Construction Documents and the Contract Documents remain the Contractor's responsibility.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on

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all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, completeness and accuracy of the services, certifications, and approvals performed or provided by such design professionals. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. A registered architect must prepare plans and specifications for all the Work, as governed by the Texas Occupations Code Chapter 1051; and a registered engineer must prepare plans, specifications and estimates for all Work governed by Texas Occupations Code Chapter 1001. In the event that Contractor retains a licensed design professional under the terms of this paragraph, Contractor shall require that the licensed design professional carry commercial general liability and errors and omissions insurance coverage in the same amounts and forms as required of the Architect on this Project. In the event that the licensed design professional retained by the Contractor will be conducting on-site services or observations, the licensed design professional shall also carry worker's compensation insurance and comprehensive automobile liability in the same amounts and forms as required of the Architect on this Project.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.12.11 The Contractor shall submit complete drawings, data and samples to the Architect at least fifteen (15) days prior to the date the Contractor needs the reviewed submittals and samples returned. The Contractor shall be prepared to submit color samples on any key items (such as quarry tile, vinyl wall covering, etc.) within fifteen (15) days of the award of Subcontract(s). All color samples required for the Work shall be received within sixty (60) days of the date of the approval of the Contract Sum if the Project is an A101 project, or Guaranteed Maximum Price if the Project is an A133 project. Once samples of all key items are received, the Architect will finalize color selections.

§ 3.12.12 The Contractor shall submit the number of copies of product data and samples which the Contractor and subcontractors need for their use, plus two additional sets for the Architect, one additional set for the Owner and one additional set for each of the Architect's consultants involved with the particular section of Work. Where shop drawings are involved, the Contractor shall submit one high quality reproducible transparency and one opaque print of the shop drawing for the Architect, plus one additional opaque print for each of the Architect's consultants involved with the particular section of Work. The reproducible transparency will be marked by the Architect and/or its consultants. After final review and correction of the submittal, the Contractor shall send one corrected set to the Architect and each of the Architect's consultants involved with the particular section of Work.

§ 3.12.13 The Architect's review of Contractor's submittals shall be limited to examination of an initial submittal and one (1) re-submittal. The Architect's review of additional submittals will be made only with the consent of the Owner after notification by the Architect. The Owner shall be entitled to reimbursement from the Contractor of amounts paid to the Architect for evaluation of such additional re-submittals.

§ 3.12.14 The Contractor represents and warrants that all shop drawings shall be prepared by persons and entities possessing expertise and experience in the trade for which the shop drawings are prepared and, if required by the Architect or applicable law, by a licensed engineer.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other adversity is solely the responsibility of the Contractor.

§ 3.13.3 The Contractor and its subcontractors shall not erect any sign on the Project site without the prior written consent of the Owner.

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§ 3.13.4 Contractor shall ensure that the Work, at all times, is performed in a manner that affords Owner reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed in such a manner that public areas adjacent to the Site of the Work shall be free from all debris, building material and equipment likely to cause hazardous conditions. Without limitation of any other provision of the Construction Documents, Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of any area or building adjacent to the site of the Work, or the building, in the event of partial occupancy.

§ 3.13.5 Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrance and parking areas other than those designated by the Owner. The Contractor shall comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the Building.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly, provided, however, that any such cutting, fitting or patching can only be performed if the cutting, fitting or patching results in Work that is in accordance with the Construction Documents and Contract Documents. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.14.3 No cutting of structural elements will be permitted unless specifically approved in writing by Architect. Fitting and patching shall only be done with new products, and shall only be performed by those skilled in performing the original Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall, on a daily basis, keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. Contractor shall provide on-site containers for the collection of waste materials, debris and rubbish, and shall periodically remove waste materials, debris and rubbish from the Work and dispose of all such materials at legal disposal areas away from the site. All cleaning operations shall be scheduled so as to ensure that contaminants resulting from the cleaning process will not fall on newly-coated or newly-painted surfaces. Immediately after unpacking materials, all packing case lumber or other packing materials, wrapping or other like flammable waste shall be collected and removed from the building and premises. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project. Care shall be taken by all workers not to mark, soil, or otherwise deface any finish. In the event that any finish becomes defaced in any way by mechanics or workers, the Contractor or any of its Subcontractors shall clean and restore such surfaces to their original condition.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.15.3 The Contractor shall be responsible for the protection of the Work. Prior to the Architect's inspection for Substantial Completion, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.

§ 3.15.4 After construction is complete, Contractor shall: (1) employ skilled workers for final cleaning; (2) remove grease, mastic adhesive, dust, dirt, stains, fingerprints, labels and other foreign materials from all sight-exposed

interior and exterior surfaces; (3) wash and shine glazing and mirrors; (4) polish glossy surfaces to a clear shine; (5) vacuum clean carpeted and similar soft surfaces; (6) clean (damp mop with clean mop and water) resilient and hard surface floors repeating as necessary until no visible residue remains on floors; (7) clean plumbing fixtures to a sanitary condition; (8) clean surfaces of all equipment and remove excess lubrication; (9) clean permanent filters and replace disposable filters in ventilating systems if units were operated during construction and clean ducts, blowers and coils; (10) clean light fixtures; (11) remove waste, foreign matter and debris from roofs, gutters, area ways and drainage ways; (12) remove waste, debris and surplus materials from the site; (13) remove stains, spills and foreign substances from paved areas; and (14) broom clean exterior concrete and paved surfaces and rake clean the grounds.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect and their designated representatives with access to the Work in preparation and progress wherever located. The presence of the Owner, Architect or their representatives does not constitute acceptance or approval of the Work.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. THE CONTRACTOR SHALL DEFEND SUITS OR CLAIMS FOR INFRINGEMENT OF COPYRIGHTS AND PATENT RIGHTS, SHALL WAIVE AND RELEASE CLAIMS AGAINST THE OWNER AND ARCHITECT, AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER AND ARCHITECT FROM LOSS ON ACCOUNT THEREOF, PROVIDED, HOWEVER, CONTRACTOR SHALL NOT BE RESPONSIBLE TO ARCHITECT FOR SUCH DEFENSE OR LOSS WHEN A PARTICULAR DESIGN, PROCESS OR PRODUCT OF A PARTICULAR MANUFACTURER OR MANUFACTURERS IS REQUIRED BY THE CONTRACT DOCUMENTS, OR WHERE THE COPYRIGHT VIOLATIONS ARE CONTAINED IN DRAWINGS, SPECIFICATIONS OR OTHER DOCUMENTS PREPARED BY THE ARCHITECT, AND SHALL NOT BE RESPONSIBLE TO OWNER IF OWNER REQUIRES A PARTICULAR DESIGN, PROCESS OR PRODUCT THAT CONSTITUTES A COPYRIGHT VIOLATION. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Owner and Architect in writing.

§ 3.18 Indemnification

§ 3.18.1 TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL WAIVE AND RELEASE CLAIMS AGAINST AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, ARCHITECT, OWNER'S TRUSTEES, ARCHITECT'S CONSULTANTS, OWNER'S CONSULTANTS AND OFFICERS, AGENTS AND EMPLOYEES OF ANY OF THEM, FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, CAUSES OF ACTION, SUITS, JUDGMENTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, PROVIDED THAT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (INCLUDING THE WORK ITSELF) INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, ANYONE THEY CONTROL OR EXERCISE CONTROL OVER, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN PART BY ANY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF OWNER OR OWNER'S CONSULTANTS OR OTHER INDEMNIFIED PARTIES. SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY THAT WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS SECTION 3.18. ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY CONTRACTOR TO THE INDEMNIFIED PARTIES, AND ANY COST AND EXPENSES SO INCURRED BY INDEMNIFIED PARTIES SHALL BEAR INTEREST UNTIL REIMBURSED BY CONTRACTOR, AT THE RATE OF INTEREST PROVIDED TO BE PAID BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF TEXAS.

§ 3.18.2 IN CLAIMS AGAINST ANY PERSON OR ENTITY INDEMNIFIED UNDER THIS SECTION 3.18 BY AN EMPLOYEE OF THE CONTRACTOR, A SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION UNDER SECTION 3.18.1 SHALL NOT BE LIMITED BY A LIMITATION

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ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR A SUBCONTRACTOR UNDER INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS.

§ 3.18.3 THE OBLIGATIONS OF THE CONTRACTOR UNDER THIS SECTION 3.18 SHALL NOT EXTEND TO THE LIABILITY OF THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND AGENTS AND EMPLOYEES OF ANY OF THEM, CAUSED BY OR RESULTING FROM: (1) DEFECTS IN PLANS, DESIGNS, OR SPECIFICATIONS PREPARED, APPROVED, OR USED BY THE ARCHITECT OR ENGINEER; OR (2) NEGLIGENCE OF THE ARCHITECT OR ENGINEER IN THE RENDITION OR CONDUCT OF PROFESSIONAL DUTIES CALLED FOR OR ARISING OUT OF THE CONSTRUCTION CONTRACT AND THE PLANS, DESIGNS, OR SPECIFICATIONS THAT ARE A PART OF THE CONSTRUCTION CONTRACT; AND (3) ARISING FROM : (A) PERSONAL INJURY OR DEATH; (B) PROPERTY DAMAGE; OR (C) ANY OTHER EXPENSE THAT ARISES FROM PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, OR AS OTHERWISE LIMITED BY TEXAS CIVIL PRACTICE & REMEDIES CODE SECTION 130.001 *ET SEQ.*

§ 3.18.4 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS IS PROVIDED IN SECTION 3.18.1 ABOVE. LIKEWISE, CONTRACTOR AGREES TO INDEMNIFY AND TO HOLD THE OWNER'S OTHER CONTRACTORS HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS PROVIDED IN SECTION 3.18.1 ABOVE.

§ 3.18.5 THE PROVISIONS OF SECTION 3.18 IN ITS ENTIRETY SHALL SURVIVE THE COMPLETION, TERMINATION OR EXPIRATION OF THIS CONTRACT.

§ 3.18.6 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under Paragraph 3.18, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect.

§ 3.18.7 It is understood and agreed that Subparagraph 3.18.1 above is subject to, and expressly limited by, the terms and conditions of Texas Civ. Prac. & Rem. Code Ann. Sec. 130.001 to 130.005, as amended.

§ 3.18.8 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY {INCLUDING THE WORK ITSELF) INCLUDING LOSS OF USE, TO THE SAME EXTENT AS PROVIDED IN SUBPARAGRAPH 3.18.1 ABOVE.

§ 3.19 ANTITRUST VIOLATION. To permit the Owner to recover damages suffered in antitrust violations, Contractor hereby assigns to Owner any and all claims for overcharges associated with this Contract which violate the antitrust laws of the United States, 15 U.S.C.A. Section 1 *et seq.* The Contractor shall include this provision in its agreements with each subcontractor and supplier. Each subcontractor shall include such provisions in agreements with sub-subcontractors and suppliers.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner.

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§ 4.1.3 Except as expressly provided herein, the Contractor shall not be relieved of Contractor's obligation to perform the Work in strict accordance with the Construction Documents and the Contract Documents by the duties, responsibilities, or activities of the Architect.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction, until final payment is due, and, with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Section 12.2.2. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, or as they may be amended in the future.

§ 4.2.2 Architect shall visit the site at least once per week (or more per week when deemed necessary by the Owner's Superintendent or when necessary to protect Owner's interests) and at other intervals appropriate to the stage of construction, to inspect the progress, quantity and quality of the work completed, to reject any observed nonconforming Work, and to determine if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Construction Documents and the Contract Documents and on time. Furthermore, a minimum of two job site meetings per month from commencement of construction through Final Completion will be initiated by the Architect and attended by the Contractor. Attendees will include the Owner, the Contractor's project manager and/or superintendent, Architect's project representative, and Architect. The Architect, Owner and their representatives shall at all times have access to the Work. Architect or its structural consultant will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition, Architect or its structural consultant will provide on-site observations prior to covering up or closing up of portions of the construction which, if covered, would conceal problems with the structural integrity of the Project. Contractor shall not close or cover said Work until said observations have occurred. Contractor or Architect will advise Owner of the need for any third-party laboratory or testing services to assist the Architect and Owner. On the basis of the on-site observations by Architect, Architect shall keep Owner and Contractor informed of the progress and quality of the Work, through Architect's field reports, and shall guard Owner against defects and deficiencies in the Work. Architect shall promptly notify Owner and Contractor orally regarding any defect or nonconforming Work, which shall be followed by notice in writing of defects or nonconforming Work noted and corrective actions taken or recommended. The Architect, however, shall not have control over or responsibility for the Contractor's construction means, methods, techniques, sequences, procedures, or safety programs, but this does not relieve Architect of Architect's responsibilities under this Agreement. Any services by Contractor made necessary by Contractor's construction defect or nonconforming Work shall be performed at no additional cost to Owner.

§ 4.2.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work. The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect, or request of the Contractor.

§ 4.2.4 Communications

Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. However, Owner reserves the right to communicate directly with the Contractor and Subcontractors. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner.

§ 4.2.5 As further provided in the Contract Documents, based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect shall reject Work that does not conform to the Construction Documents and the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have will recommend to Owner additional inspection or testing of the Work in accordance with the provisions of the Contract Documents,

whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Owner to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. Architect and/or Contractor shall promptly notify, orally and in writing, the other party and Owner of any fault or defect in the Project or nonconformance with Construction Documents or the Contract Documents they may respectively discover and each, upon discovery of the defect or nonconformance, shall be responsible for notifying the other party and Owner of those corrective actions they respectively take; provided, however, Contractor shall have no duty to notify Owner of discoveries made or actions taken by Architect. Testing or inspections required by this subparagraph shall be conducted subject to the requirements of Chapter 2269 of the Texas Government Code.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Construction Documents and the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or Separate Contractors while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation of equipment or systems, all of which remain the responsibility of the Contractor as required by the Construction Documents and the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. If any submittal does not comply with the requirements of the Construction Documents or the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples.

§ 4.2.8 The Architect shall review, prepare and make recommendations to Owner regarding all Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Construction Documents and the Contract Documents, accompanied by all supporting documentation. The Architect may authorize minor changes in the Work not involving an adjustment in Contract Sum or Guaranteed Maximum Price, or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified, as provided in Section 7.4. The Architect shall accept requests by the Owner, and shall review properly prepared, timely requests by the Contractor for changes in the Work, including adjustments to the Contract Sum or Guaranteed Maximum Price, or Contract Time. A properly prepared request for a change in the Work by the Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Construction Documents or the Contract Documents, and do not change the Contract Sum or Guaranteed Maximum Price, or Contract Time, then the Architect may issue an order for a minor change in the Work with prior written notice to the Owner or recommend to the Owner that the requested change be denied. The Architect is not authorized to approve changes involving major systems such as: Heating, Ventilation and Air Conditioning ("HVAC"); roof; foundation; outward appearance; color schemes; floor plans; building materials; drainage or mechanical equipment without Owner's prior written consent.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and make recommendations concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations or recommendations of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and recommendations, the Architect will endeavor to secure faithful performance by both Owner and Contractor.

§ 4.2.13 The Owner's decisions on matters relating to aesthetic effect shall be final.

§ 4.2.14 The Architect will review and respond to requests for information about the Construction Documents and the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information, at no additional cost to the Owner.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect in writing of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect shall notify in writing the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. All subcontractors shall be procured in accordance with Texas Education Code Chapter 44, Subchapter B, and Texas Government Code Chapter 2269, as applicable. A notice of no reasonable objection shall in no way relieve the Contractor from full responsibility for performance and completion of the Work and its obligations under the Contract Documents. The Contractor shall be fully responsible for the performance of its subcontractors, including those recommended or approved by the Owner.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. When the parties agree on a proposed substitute Subcontractor, then the Contract Sum and Contract Time may be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.2.5 Each Contractor or subcontractor shall be required to completely familiarize itself with the plans and specifications, to visit the Work site to completely familiarize itself with existing conditions, and to conduct any other

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appropriate investigations, inspections or inquiries prior to submission of a bid or proposal. No increases in Contract Sums or Guaranteed Maximum Price shall be allowed for failure to so inspect or investigate.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. The terms and conditions of the Contract Documents shall be incorporated by reference into each subcontract agreement, included as provided below. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors. Each subcontractor shall provide proof of insurance to Contractor consistent with the Contractor's insurance to Owner and in an amount commensurate with the Work to be performed by the Subcontractor.

§ 5.3.1 Neither the Owner nor the Architect shall be obligated to pay or to insure the payment of any monies to subcontractors due to any non-payment to the Contractor or non-payment of subcontractors by the Contractor.

§ 5.3.2 The Contractor shall require any potential subcontractor to disclose to the Contractor any ownership interest or familial relationship between the Contractor, the Architect or the Owner and the potential subcontractor prior to entering into a subcontract. Contractor shall report to Owner all such disclosures and the Owner shall have the right, in its sole discretion, to reject any such affiliated subcontractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for any unperformed portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause or convenience pursuant to Article 14 or abandonment of the Project by the Contractor; and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights and obligations of the surety, if any, obligated under bond relating to the Contract; and
- .3 the Subcontractor provides bonds as required by law or prime contractors and by Owner.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Such assignment shall not constitute a waiver by Owner of its rights against Contractor, including, but not limited to, claims for defaults, delays or defects for which a subcontractor or material vendor may also be liable.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. Owner shall only be responsible for compensating subcontractors for Work performed or materials furnished from and after the date on which the Owner gives written notice of its acceptance of the subcontract agreement. Owner shall not be responsible for any Work performed or materials furnished by subcontractors prior to the date of Owner's written notice of acceptance.

§ 5.5 NOTICE OF SUBCONTRACTOR DEFAULT

Contractor shall promptly notify Owner and Architect of any material defaults by any Subcontractor or Sub-subcontractor. Notwithstanding any provision contained in Article 5 to the contrary, it is hereby acknowledged and agreed that Owner has in no way agreed, expressly or implicitly, nor will Owner agree, to allow any

Subcontractor, Sub-subcontractor or other materialman or worker employed by Contractor the right to obtain a personal judgment or to create a mechanic's or materialman's lien against Owner for the amount due from the Owner or the Contractor.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. The Owner reserves the right to perform other non-Project-related construction work, maintenance and repair work, and school program operations at the site and near the site during the time period of the Work.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Contractor shall coordinate the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor to ensure that the Work remains on schedule. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement between the Owner and Contractor. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 [*Intentionally deleted.*]

§ 6.2 Contractor's Responsibility

§ 6.2.1 It shall be the responsibility of the Contractor to assist, review, and coordinate the scheduling of work performed by any of the Owner's Separate Contractors. In addition, the Contractor shall be responsible for coordinating and providing all construction administration necessary for the Work and the work of any of Owner's Separate Contractors. The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for site access and introduction and storage or staging of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents. Contractor shall be responsible for coordination between Contractor's subcontractors and Owner's Separate Contractors. Contractor shall review Owner's contract with Owner's Separate Contractors and become familiar with the requirements and scope of services contained therein.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify in writing the Architect and Owner of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work, and shall promptly report in writing to the Architect and Owner if Owner's Separate Contractors fail in any way to timely perform their services or negatively impact Contractor's schedule or ability to perform the Work. Failure of the Contractor to notify in writing the Architect and Owner of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper and is performed in a timely manner to receive the Contractor's Work. The Contractor shall not be responsible for latent discrepancies or defects in the construction or operations by the Owner or Separate Contractor.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction.

§ 6.2.3.1 If the Architect is required to provide additional services as provided in the Agreement between the Owner and the Architect, specifically relating to additional compensation for the Architect for evaluating an excessive number of claims submitted by the Contractor or others in connection with the Work in accordance with the Owner's Agreement with the Architect, then such services shall be paid for by the Contractor through the Owner, unless the additional services result from negligence of or an act or omission by the Architect.

§ 6.2.3.2 If the Architect provides services in connection with a legal proceeding, except when the Architect is a party thereto, and the Owner requests the Architect in writing to provide such services, then the cost of such services shall be paid for by the party whose act or omission was a proximate cause of the problem that led to the requirement to provide such services. Such services shall be paid for by such party through the Owner, who upon receipt of same shall reimburse the Architect.

§ 6.2.3.3 All construction costs resulting from the Contractor's negligence, lack of oversight, inattention to detail, failure to investigate, or failure to follow the Construction Documents or Contract Documents, will be borne by the Contractor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Owner will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. A properly prepared written request for a change in the Work by Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a recommendation to Owner.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents or Construction Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work. Contractor shall not make any claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price due to: a change in the materials used; a change in the specified manner of constructing and/or installing the Work; or additional labor, services, or materials, beyond that actually required by the terms of the Construction Documents or the Contract Documents, unless made pursuant to a written order or directive from Owner authorizing Contractor to proceed with a change in the Work. No claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price shall be valid unless so ordered or directed.

§ 7.1.4 The total Contractor mark-up for overhead, profit, or fee for work performed by the Contractor's own forces shall not exceed 10% of the cost of the change in the Work. The total Contractor mark-up for overhead, profit or fee for supervision of work performed by subcontractors' forces shall not exceed 4% of the cost of the change in the Work. The total subcontractor mark-up for overhead, profit or fee for work performed by the subcontractor's forces shall not exceed 10% of the cost of the change in the Work. In no event shall total mark-up for overhead, profit or fee in any work which involves a subcontractor or one or more sub-subcontractors, regardless of who performs the work, exceed 14% of the total cost of the change in the Work.

§ 7.1.5 Allowance balances may be used to fund changes in the Work. The Contractor will not be allowed an overhead, profit, or fee mark-up when changes in the Work are funded by one of the Allowances.

§ 7.1.6 If the Contract Sum is \$1,000,000.00 or more, or if the Contract Sum is less than \$1,000,000.00, and any Change Order, Construction Change Directives, or other Changes in the Work would increase the Contract Sum to \$1,000,000.00 or more, the total of all Change Orders, Construction Change Directives, or other Changes in the Work

may not increase the Contract Sum by more than 25% of the original Contract Sum. Any Change Order, Construction Change Directive, or other Change in the Work that would exceed that limit is void and of no effect. Texas Education Code § 44.0411.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum or Guaranteed Maximum Price; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods used in determining adjustments to the Contract Sum or Guaranteed Maximum Price may include those listed in Section 7.3.3.

§ 7.2.3 Contractor stipulates that acceptance of a Change Order by the Contractor constitutes full accord and satisfaction for any and all Claims, whether direct or indirect, arising from the subject matter of the Change Order.

§ 7.2.4 In no event shall a single change, or the aggregate of all changes, result in the total costs, reimbursements and fees exceeding the Contract Sum or the Guaranteed Maximum Price, unless agreed to in writing by Owner prior to the commencement of such modified or changed Work.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum, or Guaranteed Maximum Price, or Contract Time, or all of the above. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum or Guaranteed Maximum Price and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum or Guaranteed Maximum Price, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon (additional mark-ups for overhead, profit, and fees will not be allowed);
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee, subject to the limitations of subparagraph 7.4.1; or
- .4 As provided in Section 7.3.4, subject to the limitations of subparagraph 7.1.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum or Guaranteed Maximum Price, then Architect shall determine the adjustment on the basis of the amount by which the Contractor's direct costs have actually been increased over the direct cost of performing the Work without the Change in the Work. Direct costs shall be limited to the following:

- .1 Actual costs of labor, including applicable payroll taxes, and workers' compensation insurance;
- .2 Actual costs of materials, supplies, and equipment, including cost of transportation used in performing the Change in the Work;
- .3 Actual rental costs of machinery and equipment rented from third parties, exclusive of hand tools;
- .4 Actual costs of premiums for all bonds and insurance, and permit fees;
- .5 Costs of supervision and field office personnel directly attributable to the change.

The Contractor shall keep and present, in such form as the Architect or Owner may prescribe, an itemized accounting of the items listed above, together with appropriate supporting documentation.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Guaranteed Maximum Price, or Contract Time, provided that, pursuant to Texas Government Code Section 2251.0521, Contractor shall not be required to proceed with additional work nor be responsible for any damages resulting from not proceeding with such work absent a fully-executed Change Order when such Construction Change Directive, either individually or collectively with other Construction Change Directives for which no Change Order has been fully executed, exceeds ten percent (10%) of the Guaranteed Maximum Price or the Contract Sum. No subcontractor shall be required to proceed with additional work nor be responsible for any damages resulting from not proceeding with such work absent a fully-executed Change Order when such Construction Change Directive, either individually or collectively with other Construction Change Directives for which no Change Order has been fully executed, exceeds ten percent (10%) of the subcontractor's contract amount.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum or Guaranteed Maximum Price, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost plus the Contractor's allocated percent of profit and overhead, all as confirmed by the Architect.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

With prior written notice to the Owner's representative, the Architect may order minor changes in the Work that are consistent with the Contract Documents or Construction Documents and do not involve an adjustment in the Contract Sum or Guaranteed Maximum Price, or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Guaranteed Maximum Price, or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Guaranteed Maximum Price, or Contract Time, the Contractor waives any adjustment to the Contract Sum or Guaranteed Maximum Price, or extension of the Contract Time. The Contractor shall carry out such written orders promptly. Minor changes in the Work shall not include changes that involve the outward appearance of the structure, color schemes, floor plans, building materials, landscaping, or mechanical equipment.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Final Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the first business day after Contractor's receipt of the written Notice to Proceed. The Notice to Proceed shall not be issued by Architect until the Agreement (or Amendment, if Contractor is a Construction Manager at Risk) has been signed by the Contractor, approved by Owner's Board of Trustees, signed

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by the Owner's authorized representative, and Owner and Architect have received, and approved as to form, all required payment and performance bonds and insurance, in compliance with Article 11. Issuance of the Notice to Proceed shall not relieve the Contractor of its responsibility to comply with Article 11..

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8. The date of Final Completion is the date certified by the Architect in accordance with Paragraph 9.10. Unless otherwise agreed in writing by Owner, Contractor agrees that Final Completion shall occur not more than 30 days after the date of Substantial Completion.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor stipulates that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial and Final Completion within the Contract Time.

§ 8.2.4 The Contractor is subject to liquidated damages, as specified in the Agreement, if the Work is not completed by the date of Substantial Completion or the date of Final Completion.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by fire, governmental actions, or adverse weather conditions documented in accordance with Section 15.1.6.2; (4) by delay authorized in writing by the Owner; or (5) by other causes that the Contractor asserts, and the Architect and Owner determine, may justify delay, then the Contract Time may be extended for such reasonable time as the Architect and Owner may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Agreement does not permit the recovery of damages, including, without limitation, extended home office overhead expenses, general conditions, or other consequential damages, by the Contractor for delay or disruption or for extensions of time due to bad weather or acts of God. Contractor agrees that the only possible compensation for any delay is an extension of time.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. In the event that the Project is a Construction Management at Risk Project, the Contract Sum shall not exceed the Guaranteed Maximum Price.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices may be equitably adjusted by prior written agreement.

§ 9.2 Schedule of Values

§ 9.2.1 Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum or in the case of a Guaranteed Maximum Price, within 15 days after establishing the Guaranteed Maximum Price, to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as

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a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The schedule of values shall be prepared in such a manner that each major item of work, whether done by Contractor's own forces or subcontracted, is shown as a single line item on AIA Documents G702 and G703, Application and Certificate for Payment and Continuation Sheet. If the Contractor is a Construction Manager at Risk, then the Contractor's fee and general conditions shall be specifically shown, and AIA Documents G702CMA and G703 shall be used.

§ 9.2.2 If the project is a Construction Manager at Risk project, in order to facilitate the review of Applications for Payment, the Schedule of Values shall be submitted on AIA Documents G702 and G703, and shall include the following:

- .1 Contractor's cost for Contractor's fee (if applicable) bonds and insurance, mobilization, or general conditions, etc. shall be listed as individual line items.
- .2 Contractor's costs for various construction items shall be detailed. For example, concrete work shall be subdivided into footings, grade beams, floor slabs, or paving, etc.
- .3 On major subcontracts, such as mechanical, electrical and plumbing, the schedule shall indicate line items and amounts in detail (for example: underground, major equipment, fixtures, installation fixtures, or start-up, etc.).
- .4 Costs for subcontract work shall be listed without any additional mark-up of Contractor's costs for overhead, profit, or supervision.
- .5 If payment for stored materials is requested prior to installation, then material and labor shall be listed as separate line items.
- .6 Contractor shall provide a report of actual versus projected reimbursable expenses (general conditions), updated monthly.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage.

§ 9.3.1.1 Contractor agrees that, for purposes of Texas Government Code Sections 2251.021 and 2251.042, receipt of the Application for Payment by the Architect shall not be construed as receipt of an invoice by the Owner. Contractor further agrees that Owner's receipt of the Certificate for Payment shall be construed as receipt of an invoice by the Owner, for purposes of Texas Government Code Sections 2251.021 and 2251.042.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor has not been invoiced by a Subcontractor or supplier, unless Contractor has self-performed the Work.

§ 9.3.1.3 Until Final Completion of the Work, the Owner shall withhold retainage as provided in the Contract Documents, except that Owner shall not pay amounts for which the Architect refuses to certify payment, or the Owner refuses to pay, as provided herein in Section 9.4.3 or 9.5, as amended. The retainage shall be paid with the Final Payment. *(Note: if more than 5% is retained, under Texas law, then the retainage must be placed in an interest-bearing account, and the contractor must be paid the interest earned on the retainage upon completion of the Work. Texas Government Code Section 2252.032).*

§ 9.3.2 Payments will be made on the basis of invoices for specific materials or equipment incorporated in the Work and specific materials or equipment (1) suitably stored at the site or (2) suitably stored at some off-site location, provided the following conditions are met for off-site storage:

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- .1 The location must be agreed to, in writing, by the Owner and Surety.
- .2 The location must be a bonded warehouse.
- .3 The Contractor's Surety must agree, in writing, to the amounts included in each Application for Payment.
- .4 The Contractor must bear the cost of the Owner's and Architect's expenses related to visiting the off-site storage area and reviewing the stored contents. Contractor acknowledges that Architect's time may be an Additional Service and shall compensate Architect directly for same upon request.
- .5 Payment shall not include any charges for overhead or profit on stored materials.
- .6 Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other documentation satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance (naming the Owner as insured and naming the specific materials or equipment stored and their location) and proof of delivery to the site for those materials and equipment stored off the site. Under no circumstances will the Owner reimburse the Contractor for down payments, deposits, or other advance payments for materials or equipment until the materials or equipment are delivered to Owner's site or the agreed-upon off-site storage. Failure to follow these procedures shall result in nonpayment for storage of or insurance on stored materials and equipment. Failure to follow these procedures shall also result in nonpayment of materials and equipment until said materials and equipment are incorporated into the Work.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work. Neither Contractor nor any of its materialmen, laborers or Subcontractors shall have any lien rights against the Owner's lands, building funds, materials or other property. No materialmen, laborers or Subcontractors of the Contractor shall have any enforceable rights against the Owner on this Contract. Materialmen, laborers and Subcontractors of the Contractor may have rights under any Payment Bond provided by the Contractor, but cannot look to the Owner for any help in enforcement of those rights. CONTRACTOR SHALL WAIVE, RELEASE, INDEMNIFY, AND HOLD OWNER HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTERESTS OR ENCUMBRANCES FILED BY THE CONTRACTOR, SUBCONTRACTORS, OR ANYONE CLAIMING BY, THROUGH, OR UNDER THE CONTRACTOR OR SUBCONTRACTOR FOR ITEMS COVERED BY PAYMENTS MADE BY THE OWNER TO CONTRACTOR.

§ 9.3.4 Contractor shall submit Applications for Payment electronically or, if requested by owner, in writing and in quadruplicate using AIA Documents G702 and G703 Application and Certificate of Payment (or G702CMA, if applicable) and Continuation Sheet. All blanks in the form must be completed and signatures of Contactor and Notary Public must be original on each form. Incomplete or inaccurate Applications for Payment shall be returned to the Contractor by the Architect for completion and/or correction. Owner shall have no responsibility for payment of same if the Application for Payment is incomplete or inaccurate.

§ 9.3.5 By signing each Application for Payment, the Contractor stipulates and certifies to the following: that the information presented is true, correct, accurate and complete; that the Contractor has made the necessary detailed examinations, audits, and arithmetic verifications; that the submitted Work has been completed to the extent represented in the Applications for Payment; that the materials and supplies identified in the Applications for Payment have been purchased, paid for, and received; that the subcontractors have been paid as identified in the Applications for Payment or that Contractor has been invoiced for same; that Contractor has made the necessary on-site inspections to confirm the accuracy of the Applications for Payment; that there are no known mechanics' or materialmen's liens outstanding at the date of the Application for Payment; that all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current Payment Application; that, except for such bills not paid but so included, there is no known basis for the filing of any mechanics' or materialmen's liens on the

Work; that the Payment Application includes only Work self-performed by Contractor or for which Contractor has been invoiced; and that releases from all Subcontractors and materialmen have been obtained in such form as to constitute an effective release of lien under the laws of the State of Texas covering all Work performed and for which payment has been made by the Owner to the Contractor. Contractor understands that documents submitted to Owner become government documents under the laws of the State of Texas. Contractor further understands that falsification of Contractor's Application for Payment may constitute a violation of the penal laws of the State of Texas, including, but not limited to, Texas Penal Code Sections 32.46, 37.09, and 37.10, and may justify termination of Contractor's Contract with Owner. Contractor further understands and agrees that falsification of documents may entitle Owner to restitution as permitted by Texas law and these Contract Documents.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment carefully evaluate and review the Application for Payment and, when appropriate, return the Application for Payment to the Contractor as provided in Section 9.3.4. If the Application for Payment is complete, then the Architect shall sign and either (1) certify and issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) certify and issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing with a detailed statement of the Architect's reasons for withholding certification and disputing in part certification in accordance with Texas Government Code Section 2251.042(2)) and as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner in writing with a detailed statement of the Architect's reason for withholding certification in whole in accordance with Texas Government Code Section 2251.042(a) and as provided in Section 9.5.1.

Architect's written reasons for withholding certification shall be construed as the notice required by Texas Government Code Section 2251.042 *et seq.* Owner may not withhold from payments more than 110% of the disputed amount. Owner shall provide certifications of payment for any of the Owner's separate consultants or contractors on Architect's prior written request.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, that the Architect has observed the progress of the Work and determined that, in the Architect's professional opinion, the Work has progressed to the point indicated, and the quality of the Work is in accordance with the Contract Documents. Further, the issuance of the Certificate for Payment will constitute a representation by the Architect to the Owner that the Architect has carefully evaluated and certified that the amounts requested in the Application for Payment are valid and correct. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect in writing to the Owner. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data unless requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum. Examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's accountants or other representatives of the Owner acting in the sole interest of the Owner.

§ 9.4.3 The issuance of a Certificate for Payment shall constitute a recommendation to the Owner regarding the amount to be paid. This recommendation is not binding on the Owner if Owner knows of other reasons under the Contract Documents why payment should be withheld.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as

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may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 repeated failure to carry out the Work in accordance with the Contract Documents; or
- .8 failure to submit a written plan indicating action by the Contractor to regain the time schedule for completion of Work within the Contract time.

§ 9.5.2 When the Contractor disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, the Contractor may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 Notwithstanding any provision contained within this Article, if the Work has not attained Substantial Completion or Final Completion by the required dates, subject to extensions of time allowed under the Contract Documents, then Architect may withhold any further Certificate for Payment from Contractor to the extent necessary to preserve sufficient funds to complete the construction of the Project and to cover liquidated damages. The Owner shall not be deemed in default by reason of withholding payment as provided for in Sections 9.3.4, 9.4.3, 9.5.1, or this Section.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment for undisputed amounts in the manner and within the time provided in the Contract Documents, and shall so notify the Architect. Owner shall notify Contractor within 21 days if Owner disputes the Architect's Certificate for Payment pursuant to Texas Government Code Section 2251.042 *et seq.*, listing the specific reasons for nonpayment. Payments to the Contractor shall not be construed as releasing the Contractor or its Surety from any obligations under the Contract Documents.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. In compliance with Texas Government Code Section 2251.022, the Contractor shall, within ten (10) days following receipt of payment from the Owner, pay all bills for labor and materials performed and furnished by others in connection with the Work, and shall, if requested, provide the Owner with evidence of such payment. Contractor shall include a provision in each of its subcontracts imposing the same payment obligations on its Subcontractors as are applicable to the Contractor hereunder, and if the Owner so requests, shall provide to the Owner copies of such Subcontractor payments. If the Contractor has failed to make payment promptly to the Contractor's Subcontractors or for materials or labor used in the Work for which the Owner has made payment to the Contractor, then the Owner shall be entitled to withhold payment to the Contractor in part or in whole to the extent necessary to protect the Owner. This Section is subject to the provisions of Texas Business and Commerce Code Chapter 56.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers

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to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier. Any action taken by the Owner to require the Contractor to pay a Subcontractor shall not impose any liability on Owner to the Subcontractor or supplier.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision. Payments received by the Contractor from the Owner for Work properly performed by Subcontractors, or materials properly provided by suppliers, shall be held in trust by the Contractor for the benefit of those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor. Texas Property Code § 162.001.

§ 9.6.8 The Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.6.9 Contractor shall not withhold as a retainage a greater percentage from Subcontractors or materialmen than the percentage that Owner withheld as retainage from payments to Contractor.

§ 9.7 Failure of Payment

§ 9.7.1 Pursuant to Texas Government Code Section 2251.051, if the Owner does not pay the Contractor any payment certified by the Architect, which is undisputed, due, and owing after the date the payment is due under the Contract Documents then the Contractor, upon ten (10) additional days' written notice to the Owner and Architect that payment has not been made and the Contractor intends to suspend performance for nonpayment, may stop the Work until payment of the undisputed amount owing has been received. If the Owner provides written notice to the Contractor that: 1) payment has been made; or 2) a bona fide dispute for payment exists, listing the specific reasons for nonpayment, then Contractor shall be liable for damages resulting from suspension of the Work. If a reason specified is that labor, services, or materials provided by the Contractor are not provided in compliance with the Contract Documents, then the Contractor shall be provided a reasonable opportunity to cure the noncompliance or to compensate Owner for any failure to cure the noncompliance. No amount shall be added to the Contract Sum as a result of a dispute between Owner and Contractor unless and until such dispute is resolved in Contractor's favor.

§ 9.7.2 If the Architect does not issue a Certificate for Payment within seven days after receipt of the Contractor's Application for Payment, through no fault of the Contractor, then the Contractor shall provide written notice to the Owner, and the Owner shall have fourteen (14) business days after receipt of such notice to provide or obtain a Certificate for Payment. If Owner fails to provide or obtain the Certificate for Payment, then the Contractor may, upon fourteen (14) additional business days' written notice to the Owner and Architect, stop the Work until payment of the undisputed amount owing has been received.

§ 9.7.3 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, then such payment shall be made promptly upon demand by the Owner. Notwithstanding anything contained in the Contract Documents to the contrary, if the Contractor fails to promptly make any payment due to Owner, pursuant to the Contract, or if the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, then the Owner shall have an absolute right to offset such amount against the Contract Sum and, in the Owner's sole discretion and without waiving any other remedies, may elect either to:

- .1 deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due to Contractor from the Owner, or
- .2 issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use; all Project systems included in the Work or designated portion thereof have been successfully tested and are fully operational; all required governmental inspections and certifications required of the Work have been made, approved and posted; designated initial instruction of Owner’s personnel in the operation of Project systems has been completed; and all the required finishes set out in the Construction Documents are in place. The only remaining Work shall be minor in nature so that the Owner can occupy the Work or the applicable portion of the Work for all of its intended purposes on that date; and the completion of the Work by the Contractor will not materially interfere with or hamper Owner’s normal school operations or other intended use. As a further condition of a determination of Substantial Completion, the Contractor shall certify that all remaining Work shall be completed within 30 days. Contractor shall complete Owner’s or the State’s Substantial Completion Certificate. The payment certification shall state the date of Substantial Completion, the punch list provided by the Contractor to address all remaining areas of the Project, and all known Owner-accepted non-conforming work. Required certifications of work requested or required by the Owner shall be limited to work required under the Contract Documents.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor’s list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect’s inspection discloses any item, whether or not included on the Contractor’s list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, then the Architect shall so notify the Contractor and Owner in writing, and the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion. Except with the consent of the Owner, the Architect shall perform no more than five inspections to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner shall be entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare, sign and issue Owner’s Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Final Completion of the Work or designated portion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when agreed to by the Owner and the Contractor in writing, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided that the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work resulting from such occupancy, use or installation, and property and liability insurance. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of

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the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect. Contractor agrees that the Owner may place and install as much equipment and furnishings as is possible before completion or partial completion of portions of the Work.

§ 9.9.2 Immediately prior to such partial occupancy, use, or installation, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon in writing, partial occupancy or use of a portion or portions of the Work or installation of furnishings and equipment shall not constitute acceptance of Work not complying with the requirements of the Contract Documents, nor shall it constitute evidence of Substantial Completion or Final Completion.

§ 9.9.4 In the event that Owner takes partial occupancy or installs furnishings and equipment prior to Substantial Completion of the Project, Contractor shall obtain an endorsement to Contractor's Builder's Risk Policy to provide extended coverage for partial occupancy if Contractor's Builder's Risk Coverage required by Article 11 would not otherwise provide such coverage.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly prepare, sign, and issue Owner's Certificate of Final Completion and a final Certificate for Payment certifying to the Owner that on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance, including all retainages, found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. Final payments shall be made by the Owner in accordance with Owner's regular schedule for payments.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) using AIA Document G706, an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) evidence satisfactory to Owner that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) using AIA Document G707, consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) except for amounts previously withheld by the Owner, other data establishing payment or satisfaction of obligations, such as AIA Document G706A, notarized subcontractor's lien releases, receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees. In addition, the following items must be completed and received by the Owner before Final Payment will be due:

- .1 Written certifications required by Sections 10.5, 10.6, and 10.7;
- .2 Final list of subcontractors (AIA Document G705);
- .3 Contractor's certification in Texas Education Agency's Certification of Project Compliance;
- .4 Contractor's warranties, organized as required elsewhere in the Contract Documents;
- .5 Maintenance and Instruction Manuals;

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- .6 Owner's Final Completion Certificate; and
- .7 "As-constructed record drawings". At the completion of the Project, the Contractor shall submit one complete set of "as-constructed" record drawings, with all changes made during construction, including concealed mechanical, electrical, and plumbing items. The Contractor shall submit these as electronic, sepi, or other acceptable medium, in the discretion of the Owner. The "as-constructed" record drawings shall delete the seal of the Architect and/or the Engineer and any reference to those firms providing professional services to the Owner, except for historical or reference purposes.

Documents identified as affidavits must be notarized. All manuals will contain an index listing the information submitted. The index section will be divided and identified by tabbing each section as listed in the index. Upon request, the Architect will furnish the Contractor with blank copies of the forms listed above. Final payment shall be paid by the Owner to the Contractor within thirty (30) days after Owner's Board of Trustees has voted to accept the Work and approve Final Payment. Owner, Architect, Contractor, and prime subcontractors, if applicable, shall certify compliance with all applicable school facility standards required in 19 TAC Section 61.1040 subsections (d) and (g)-(k). 19 TAC Section 61.1040(f).

Per 19 TAC Section 61.1040(6)(f)(C), Contractor shall certify the following:

- (i) Process certifications. To ensure construction quality and performance of contract terms, the Contractor and prime subcontractors, if applicable, shall certify compliance that the Project has been built in conformance with the contract documents.
- (ii) Certifications related to construction quality standards under subsection (j) of 19 TAC Section 61.1040.

To ensure compliance with construction quality standards, the Contractor and prime subcontractors, if applicable, shall certify compliance at the completion of a capital improvement project that the Project has been built in conformance with the contract terms and performance standards specified by the Contract Documents for the Contractor and for any of its subcontractors or subconsultants of any tier, which shall include certification of compliance with any subsequent change order documents approved by the Owner and Architect.

Where a third-party code compliance officer is required by subsection (j) of 19 TAC Section 61.1040 to ensure that a third-party code compliance officer does not find any violations of the provisions of the required construction codes identified in subsection (j)(1) of 19 TAC Section 61.1040 that are not enforced by a state or local authority having jurisdiction, Owner shall require that a third-party code compliance officer issue a third-party certificate of occupancy. Where a local authority having jurisdiction enforces some of the required construction codes, a third-party code compliance officer shall not issue a third-party certificate of occupancy until either the local authority having jurisdiction has issued a certificate of occupancy or the local authority having jurisdiction indicates in writing to the third-party code compliance officer that the local authority having jurisdiction does not issue certificates of occupancy.

Certifications related to safety and security standards under subsection (k) of 19 TAC Section 61.1040. To provide a safe and secure environment, the Contractor and prime subcontractors, if applicable, shall certify compliance that the Project has been built in reasonable accordance with the safety and security directives provided by the school district and reflected in the Contract Documents prepared by the Architect.

Special provisions for a Construction Manager-Agent. For projects that use the construction manager agent contracting method established in Texas Government Code Chapter 2269, Subchapter E, the Construction Manager Agent and each construction prime contractor must provide certification in accordance with clause (i) of 19 TAC Section 61.1040, and each shall certify the scope of work for which they are contractually responsible.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If

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the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, and it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall
(Paragraphs deleted)

not constitute a waiver of any Claims by the Owner.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously asserted pursuant to Article 15 and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract and shall conform to all provisions of the "Manual of Accident Prevention in Construction", published by the Associated General Contractors of America, Inc., latest edition, and the Contractor further agrees to fully comply with all safety standards required by the Occupational Safety and Health Administration ("OSHA") 29 USC Section 651 *et seq.*, and all amendments thereto. However, the Contractor's duties herein shall not relieve any Subcontractor or any other person or entity, including any person or entity required to comply with all applicable federal, state and local laws, rules, regulations, and ordinances, from the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. Contractor shall provide reasonable fall protection safeguards and provide approved fall protection safety equipment for use by all exposed Contractor employees.

§ 10.1.1 Contractor's employees, agents, Subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, shall not perform any service for Owner while under the influence of any amount of alcohol or any illegal controlled substance; or use, possess, distribute, or sell alcoholic beverages while on Owner's premises. No person shall: use, possess, distribute, or sell illegal or nonprescribed controlled drugs or drug paraphernalia; misuse legitimate prescription or over-the-counter drugs; or act in contravention of warnings on medications while performing the Work or while on Owner's premises. Contractor's employees, agents, Subcontractors, or anyone directly or indirectly employed by any of them, shall not distribute or sell alcohol or drugs of any kind to Owner's students or staff, regardless of the location of the distribution or sale.

§ 10.1.2 Contractor will comply with all applicable federal, state, and local drug and alcohol-related laws and regulations (e.g., Department of Transportation regulations, Drug-Free Workplace Act). Contractor has adopted or will adopt its own policy to assure a drug-free and alcohol-free workplace while on Owner's premises or performing the Work. Contractor will remove any of its employees, agents, subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, from performing the Work any time there is suspicion of alcohol and/or drug use, possession, or impairment involving such person, and at any time an incident occurs where drug or alcohol use could have been a contributing factor. Owner has the right to require Contractor to remove any person from performing the Work any time cause exists to suspect alcohol or drug use. In such cases, the person so removed may only be considered for return to work after the Contractor certifies, as a result of a for-cause test, conducted immediately following removal, that said person was in compliance with this Contract. Contractor will not use any person to perform the Work who fails or refuses to take, or tests positive on, any for-cause alcohol or drug test.

§ 10.1.3 Owner has also banned the presence of all weapons on the Project site, whether or not the owner thereof has a permit for a weapon, and Contractor agrees that Contractor's representatives, employees, agents, and subcontractors will abide by same. Weapons may only be permitted in Owner's parking lots if weapons are locked in personal vehicles in Owner's parking lot.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work, school personnel, students, and other persons on Owner's premises, and other persons who may be affected thereby, including the installation of fencing between the Work site and any connecting or adjacent property of Owner, when required by Texas Education Code Section 22.08341;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as other buildings, and other contents, fencing, trees, shrubs, lawns, walks, athletic fields, facilities, and tracks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including installing fencing, posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards. The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any personal or real property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor.

§ 10.2.4 When use or storage of hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel and shall only conduct such activities after giving reasonable advance written notice of the presence or use of such materials, equipment, or methods to Owner and Architect. The storage of explosives on Owner's property is prohibited. The use of explosive materials on Owner's property is prohibited unless expressly approved in advance in writing by Owner and Architect.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 The Contractor shall do all things reasonably necessary to protect the Owner's premises and all persons from damage and injury when all or a portion of the Work is suspended for any reason.

§ 10.2.9 The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work which cause death, bodily injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious bodily injuries, or serious property damages are caused, then the accident shall be reported immediately by any means necessary to give actual notice to the Owner's representative and the Architect.

§ 10.2.10 Contractor's obligations under Section 10.2 as to each portion of the Project shall continue until Owner takes possession of and occupies that portion of the Project.

(Paragraphs deleted)

§ 10.2.11 Injury or Damage to Person or Property

If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or

not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter. Contractor understands and acknowledges that, under Texas law, Owner has sovereign and/or governmental immunity as to all torts except as to the Owner's permitted use or operation of Owner's motor vehicles, subject to any defenses under law.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify in writing the Owner and Architect of the condition. In the event the Contractor encounters polychlorinated biphenyl (PCB), and the specifications require the PCB's removal, the Contractor shall remove the PCB and store it in marked containers at the jobsite provided by the Owner. If PCBs are found which are leaking, then Contractor shall stop work on the affected fixture and shall contact Owner for removal and disposal of the leaking PCBs.

§ 10.3.2 Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contractor may be entitled to an equitable adjustment regarding the Date of Substantial Completion and/or Final Completion.

§ 10.3.3 IF CONTRACTOR IMPORTS HAZARDOUS MATERIALS ONTO THE PROJECT SITE, THEN CONTRACTOR HEREBY INDEMNIFIES AND HOLDS HARMLESS THE OWNER, ITS CONSULTANTS, TRUSTEES, OFFICERS, AGENTS AND EMPLOYEES, AGAINST ANY CLAIMS ARISING OUT OF OR RELATED TO SUCH IMPORTATION, INCLUDING BUT NOT LIMITED TO COSTS AND EXPENSES THE OWNER INCURS FOR REMEDIATION OF A MATERIAL OR SUBSTANCE THE CONTRACTOR BRINGS TO THE SITE, AS PROVIDED FOR IN SUBPARAGRAPH 3.18.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site.

§ 10.3.5 *[Intentionally deleted.]*

§ 10.3.6 *[Intentionally deleted.]*

§ 10.4 Emergencies

(Paragraph deleted)

§ 10.4.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss.

§ 10.4.2 The performance of the foregoing services by the Contractor shall not relieve the subcontractors of their responsibility for the safety of persons and property and for compliance with all federal, state and local statutes, rules, regulations and orders of any governmental authority applicable to the conduct of the Work.

§ 10.5 ASBESTOS OR ASBESTOS-CONTAINING MATERIALS

§ 10.5.1 Contractor shall submit to the Architect a written certification addressed to the Owner that all materials used in the construction of this Project contain less than 0.10% by weight of asbestos and for which it can be demonstrated that, under reasonably foreseeable job site conditions, will not release asbestos fibers in excess of 0.1 fibers per cubic

centimeter. The written certification shall further state that, should asbestos fibers be found at this Project in concentrations greater than 0.1 fibers per cubic centimeter, then Contractor shall be responsible for determining which materials contain asbestos fibers and shall take all necessary corrective action to remove those materials from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor.

§ 10.5.2 Final Payment shall not be made until this written certification has been received.

§ 10.6 LEAD-FREE MATERIAL IN POTABLE WATER SYSTEM

§ 10.6.1 Prior to payment of retainage and final payment, the Contractor and each subcontractor involved with the potable water system shall furnish a written certification that the potable water system is "lead-free".

§ 10.6.2 The written certification shall further state that should lead be found in the potable water system built under this Project, then Contractor shall be responsible for determining which materials contain lead and shall take all necessary corrective action to remove lead from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor.

§ 10.7 HAZARDOUS MATERIALS CERTIFICATION

The Contractor shall provide written certification that no materials used in the Work contain lead or asbestos materials in them in excess of amounts allowed by federal, state or local standards, laws, codes, rules and regulations; the Federal Environmental Protection Agency (EPA) standards; and/or the Federal Occupational Safety and Health Administration (OSHA) standards, whichever is most restrictive. The Contractor shall provide this written certification as part of submittals under the Section in the Project Manual related to Contract Closeout.

ARTICLE 11 INSURANCE AND BONDS

§ 11.0.1 No Work will be commenced, and no equipment or materials can be shipped, until all requirements of this Article have been satisfied, satisfactory evidence of insurance has been provided, and all insurance is in full force and effect. Contractor shall notify Owner and Architect in writing of any proposed nonconformity with these requirements, and shall notify Owner and Architect in writing of any insurance changes which occur during the terms required under the Contract Documents. Any deviation from these requirements can only be approved by Owner's Board of Trustees. Any nonconformity may be grounds for termination or modification of the Contract. To the extent that Contractor is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Contractor shall provide written notice to Owner's Board of Trustees. Said lack of insurance may then be grounds for termination or modification of this Agreement.

§ 11.0.2 Satisfactory evidence of insurance required by this Article shall be provided to Owner and Architect not later than five business days after execution of the Contract by Owner. Satisfactory evidence shall include copies of all required insurance policies, declarations, and endorsements themselves. In addition, Contractor shall also provide a duly-executed ACORD Form 25 Certificate of Liability Insurance naming Owner as a certificate holder and additional insured (except as noted in Section 11.0.4) and attaching all endorsements required herein. The Contractor shall furnish Owner all insurance amendments, renewals, notices, cancellations, and additional endorsements, as they are provided to Contractor.

§ 11.0.3 All insurance required herein shall be obtained from a company licensed to do business in the State of Texas by the Texas Department of Insurance, and shall be underwritten by a company rated not less than "A-" X in A.M. Best's Key Rating Guide, Property-Casualty, according to the latest posted ratings available on A.M. Best's website, www.ambest.com, and that permits waivers of subrogation.

§ 11.0.4 All insurance required herein shall name the Owner, its officers, employees, representatives, or agents, as an additional insured, except Contractor's Worker's Compensation insurance.

§ 11.0.5 All insurance required herein shall, by endorsement, be primary and non-contributory insurance with respect to the Owner, its officers, employees, representatives, or agents. All insurance shall be written on an occurrence basis, if available, and shall contain a waiver of subrogation in favor of Owner as provided for in Section 11.3.

§ 11.0.6 Any failure of Contractor to comply with the reporting provisions of the policies shall not affect the coverage

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provided to the Owner, its officers, employees, representatives, or agents.

§ 11.0.7 All workers on the Project must be covered by the required insurance policies of the Contractor or a Subcontractor.

§ 11.0.8 Nothing contained in this Article shall limit or waive Contractor's legal or contractual responsibilities to Owner or others.

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor and the Contractor's Subcontractors shall purchase and maintain such insurance as will protect them and the Owner from claims that may arise out of, or result from, the Contractor's operations under the Contract, whether such operations be by Contractor or by any Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, at a minimum, of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this Section 11.1 in the Agreement, or elsewhere in the Contract Documents. Such insurance shall include the following:

- .1 Claims under workers' compensation, disability benefit, and other similar employee benefit acts that are applicable to the Work to be performed, including private entities performing work at the site, and exempt from the coverage on account of number of employees or occupation, which entities shall maintain voluntary compensation coverage at the same limits specified for mandatory coverage for the duration of the Project (see Exhibit A);
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person, or property damage arising out of ownership, maintenance, or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations;
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under the Contract Documents, including under Section 3.18; and
- .9 Claims for damages to the Work itself, through builder's risk insurance, pursuant to AIA 101-2017, Exhibit A.

§ 11.1.2 [*Intentionally deleted.*]

§ 11.1.2.1 The Contractor shall furnish separate payment and performance bonds covering faithful performance of the Contract and payment of obligations arising thereunder, each bond to be in a total amount equal to 100% of the Contract Sum or Guaranteed Maximum Price, if the Project is a Construction Manager at Risk project, whichever is applicable. Provided, however, no limitation herein shall limit Contractor's liability under the Contract Documents. Except as provided below, such bond shall be furnished to Owner before any work begins and not later than five business days after execution of the Contract by Owner. (If the Guaranteed Maximum Price is not known at the time that a Construction Manager at Risk contract is awarded, then the sum of the payment and performance bonds must each be in an amount equal to the Project budget. The Construction Manager at Risk shall deliver the bonds not later than the tenth day after the date the Construction Manager at Risk executes the Contract, unless the Construction Manager at Risk furnished a bid bond or other financial security acceptable to the Owner to the District to ensure that the Construction Manager will furnish the required payment and performance bonds when the Guaranteed Maximum

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Price is established.) All bonds shall be issued by a surety company licensed, listed and authorized to issue bonds in the State of Texas by the Texas Department of Insurance, and shall fully comply with Texas Insurance Code Section 3503.001 *et seq.* and Texas Government Code Chapter 2253, or their successors. The surety company shall have a rating of not less than "A-" X according to the latest posted ratings on the A.M. Best website, www.ambest.com. The surety company shall provide, if requested, information on bonding capacity and other projects under coverage and shall provide proof to establish adequate financial capacity for this Project. Should the bond amount be in excess of ten percent (10%) of the surety company's capital and surplus, then the surety company issuing the bond shall certify that the surety company has acquired reinsurance, in a form and amount acceptable to the Owner, to reinsure the portion of the risk that exceeds ten percent (10%) of the surety company's capital and surplus with one or more reinsurers who are duly authorized and admitted to do business in Texas and that amount reinsured by a reinsurer does not exceed ten percent (10%) of the reinsurer's capital and surplus. Contractor shall immediately notify the Owner and Architect in writing if there is any change in: the rating; insolvency or receivership in any State; bankruptcy; right to do business in the State; or status of Contractor's sureties at any time until Final Completion.

§ 11.1.2.2 The Contractor shall deliver copies of the required bonds to the Owner and Architect not later than five business days after execution of the Contract by Owner. All bonds will be reviewed by the Architect for compliance with the Contract Documents. In the event that the Architect has any questions concerning the sufficiency of the bonds, the bonds will be referred to the Owner or the Owner's Representative with Architect's recommendation.

§ 11.1.2.3 All bonds shall be originals. The Contractor shall require the attorney-in-fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the power-of-attorney. The name, address, and telephone number of a contact person for the bonding company shall be provided.

§ 11.1.2.4 Bonds shall guarantee the faithful performance of all of the covenants, stipulations, and agreements of the Contract. Bonds shall be signed by an agent, resident in the State of Texas. If at any time during the continuance of the Contract, the Owner determines that the Contractor is unable to complete the Work in accordance with the Contract Documents, any of the Contractor's bonds become insufficient, the surety becomes insolvent, or the surety's rating drops below the required level, then the Owner shall have the right to require from the Contractor additional and sufficient sureties or other security acceptable to the Owner, which the Contractor shall furnish to the satisfaction of the Owner within ten (10) days after notice to do so. These contractual remedies are in addition to all remedies available by law. In default thereof, all payment or money due to the Contractor may be withheld until the Contractor provides additional surety or security.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor knows or should know of an impending or actual cancellation of any insurance required by the Contract Documents, the Contractor shall provide written notice to the Owner of such impending or actual cancellation. Upon receipt of written notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of written notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage. At least 30 calendar days prior to the date of expiration of any policy required by Section 11.1, Contractor shall provide Owner written notice of the impending expiration.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall be responsible for purchasing and maintaining property and casualty insurance no later than the date of Substantial Completion and such date of Owner responsibility shall be documented in the Certificate of Substantial Completion. If Owner occupies or uses any completed or partially-completed portion of the Work at any stage, then such occupancy or use must be consented to by the insurer and authorized by public authorities having jurisdiction over the Work. To the extent of overlap between Owner's property insurance and Contractor's builder's risk insurance, if any, Contractor's builder's risk shall be primary and non-contributory.

§ 11.2.2 Partial occupancy or use shall not commence until the insurance company providing this insurance has consented in writing, by endorsement or otherwise. Owner and Contractor shall take reasonable steps to obtain such

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consent and shall take no action without written mutual consent that would cause cancellation, lapse, or reduction of this insurance.

§ 11.2.3 [*Intentionally deleted.*]

§ 11.3 Waivers of Subrogation

§ 11.3.1 All insurance required herein shall contain a waiver of subrogation in favor of Owner on all claims arising out of the Project. The policies shall provide such waivers of subrogation. The Contractor shall require similar written waivers in favor of the Owner, from the subcontractors and sub-subcontractors. The policies of insurance purchased and maintained by Contractor pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation.

§ 11.3.2 The Owner, as fiduciary, shall have power to adjust and settle any loss arising out of the Work with insurers, regardless of the purchaser of the insurance policy. The Contractor upon receipt of proceeds shall, as a fiduciary, pay all subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements shall require subcontractors to make payment to their sub-subcontractors in similar manner. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor with the insurance proceeds upon issuance of a Notice to Proceed from the Owner.

§ 11.3.3 Partial occupancy or use shall not commence until the insurance company providing this insurance has consented in writing, by endorsement or otherwise. Owner and Contractor shall take reasonable steps to obtain such consent and shall take no action without written mutual consent that would cause cancellation, lapse, or reduction of this insurance.

(Paragraphs deleted)

§ 11.4 Loss of Use and Business Interruption Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor and Architect of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor and Architect shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor and/or the Architect do not object, the Owner shall settle the loss and the Contractor and Architect shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor and/or Architect timely object to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's or Owner's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect or Owner, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

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§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or Work failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.1.1 The Owner may make emergency repairs to the Work or take such other measures necessary under the circumstances, if the Contractor does not respond within 24 hours of a written notice by Owner of defect or nonconforming Work. Contractor shall be responsible to Owner for this cost if the reason for the repairs is attributable to the Contractor. If payments then or thereafter due to the Contractor are not sufficient to cover such costs, then the Contractor shall pay the difference to the Owner on demand.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such written notice promptly after discovery of the condition. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of written notice from the Owner or Architect, the Owner may correct the Work as provided in 12.2.2.1.1. Nothing contained in this Section 12.2 is intended to limit or modify any obligations under the law or under the Contract Documents, including any warranty obligations, expressed or implied.

§ 12.2.2.1.1 If the Contractor fails to perform the corrective Work, then Owner may perform corrective Work, at Contractor's cost. If Owner performs corrective Work, then Owner may also remove nonconforming Work and store the salvageable materials or equipment at Contractor's expense. If the Contractor does not pay all costs incurred by Owner within ten (10) days after written notice, then Owner may, upon ten (10) additional days' written notice, sell the removed materials and equipment in accordance with Owner's policies, and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, then the Contractor shall pay the difference to the Owner.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner, but only as to the corrected Work.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction by the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for

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correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.2.6 Contractor shall replace, repair, or restore any parts of the Project or furniture, fixtures, equipment, or other items placed therein (whether by Owner or any other party) that are destroyed or damaged by any such parts of the Work that do not conform to the requirements of the Contract Documents or by defects in the Work.

§ 12.2.7 The provisions of this Section 12.2 apply to Work done by Subcontractors of the Contractor as well as Work done directly by employees of the Contractor. The provision for this Section 12.2.7 shall not apply to corrective work attributable solely to the acts or omissions of any separate contractor of Owner (unless Contractor is acting in such capacities). The cost to Contractor of performing any of its obligations under this Section 12.2.7 to the extent not covered by insurance shall be borne by Contractor.

§ 12.2.8 If, however, Owner and Contractor deem it inexpedient to require the correction of Work damaged or not done in accordance with the Contract Documents, then an equitable deduction from the Contract Sum shall be made by written agreement between Contractor and Owner. Until such settlement, Owner may withhold such sums as Owner deems just and reasonable from moneys, if any, due Contractor. The settlement shall not be unreasonably delayed by the Owner and the amount of money withheld shall be based on estimated actual cost of the correction to Owner.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the laws of State of Texas, and any litigation shall be conducted in state district court. Mandatory and exclusive venue for any disputes shall be in the county in which the Project is located.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract, in whole or in part, without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The invalidity of any part or provision of the Contract Documents shall not impair or affect in any manner whatsoever the validity, enforceability, or effect of the remainder of the Contract Documents.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner or Architect shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made at appropriate times as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals which shall be included

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in the Cost of the Work. Provided, however, per Texas Government Code Chapter 2269, Owner shall bear all costs of construction materials engineering, testing and inspection services, and the verification testing services necessary for acceptance of the facility by the Owner. The Contractor shall give the Architect timely written notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Owner shall provide or contract for such additional testing, inspection, or approval. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense. Architect, Owner and Contractor shall cooperate for the timely scheduling of such tests and inspections.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including, but not limited to, those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect, with a copy to the Owner.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Undisputed payments overdue and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate as provided by Texas Government Code Section 2251.025. Any such payment shall be deemed overdue on the thirty-first day after Owner received Architect's invoice or Contractor's completed Application for Payment for the Architect, whichever is later, if Owner's Board of Trustees meets more than once per month. Any such payment shall be deemed overdue on the forty-sixth day after Owner receives Architect's invoice or Contractor's Certificate for Payment from the Architect, if Owner's Board of Trustees meets once a month or less frequently. No interest shall be due on sums properly retained by Owner, except as provided by law, or on disputed sums unpaid by Owner.

§ 13.6 EQUAL OPPORTUNITY IN EMPLOYMENT

§ 13.6.1 The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, disability, sex, or national origin, or any class otherwise protected by District policy or law. The Contractor agrees to post in conspicuous places, available to employees and applicants, notices setting forth the Contractor's nondiscrimination policies.

§ 13.6.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, age, disability, sex, national origin, or any class otherwise protected by District policy or law.

§ 13.7 RECORDS

§ 13.7.1 Contractor shall at all times through the date of Final Completion, maintain Job Records, including, but not limited to, invoices, Construction Documents, payment records, payroll records, daily reports, diaries, logs, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, other financial data and job meeting minutes applicable to the Project, in a manner which maintains the integrity of the documents. Job Records must be retained by Contractor for at least twelve (12) years after the date of Final Completion of the Project. Within 10 days of Owner's request, Contractor shall make such Job Records available for inspection, copying and auditing by the Owner, Architect or their respective representatives, at Owner's central office.

§ 13.7.2 If Contractor is a Construction Manager at Risk, then Contractor shall also maintain, in accordance with the provisions of Section 13.7.1, the following: subcontract files, including proposals of successful and unsuccessful

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bidders, bid recaps and subcontractor payments; original estimates; estimating work sheets; general ledger entries detailing cash and trade discounts received; insurance rebates and dividends; and any other supporting evidence deemed necessary by the Owner to substantiate charges related to the Contract.

§ 13.7.3 Contractor shall keep a full and detailed financial accounting system and shall exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control systems shall be satisfactory to the Owner and shall be subject to the provisions of Section 13.7.1.

§ 13.7.4 Contractor shall keep all Contract Documents related to the Project, subject to the provisions of Section 13.7.1, provided, however, Contractor shall not destroy said documents until Contractor has confirmed with Owner in writing that Owner has obtained a copy of all as-built drawings.

§ 13.7.5 In the event that an audit by the Owner reveals any errors/overpayments by the Owner, then the Contractor shall refund to the Owner the full amount of such overpayments within thirty (30) days of such audit findings, or the Owner, at its option, reserves the right to deduct such amounts owed to the Owner from any payments due to the Contractor.

§ 13.8 PROPRIETARY INTERESTS AND CONFIDENTIAL INFORMATION

§ 13.8.1 Neither Architect nor Contractor shall use the image or likeness of Owner's Project or Owner's official logo or emblem and any other trademark, service mark, or copyrighted or otherwise protected information of Owner, without Owner's prior written consent. Contractor and Architect shall not have any authority to advertise or claim that Owner endorses Architect or Contractor's services, without Owner's prior written consent.

§ 13.8.2 Neither Architect nor Contractor shall disclose any confidential information of Owner which comes into the possession of Architect or Contractor at any time during the Project, including but not limited to: pending real estate purchases, exchange, lease, or value; information related to litigation; the location and deployment of security devices; security access codes; student likenesses; student record information; employee information; or any other information deemed confidential by law.

§ 13.8.3 The parties acknowledge that, as a public entity in the State of Texas, Owner is subject to, and must comply with, the provisions of the Texas Public Information Act, Texas Government Code Section 552.001, *et seq.*, and the Texas Open Meetings Act, Texas Government Code, Section 551.001, *et seq.*

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of ninety (90) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped; or
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment of undisputed sums due on an approved Certificate for Payment within the time stated in the Contract Documents.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, then, after the applicable time period the Contractor may, upon ten (10) days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination.

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§ 14.1.4 If the Work is stopped for a period of 90 (ninety) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon twenty (20) additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or Suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or Suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents;
- .5 fails to furnish the Owner, upon written request, with assurances satisfactory to the Owner, evidencing the Contractor's ability to complete the Work in compliance with all the requirements of the Contract Documents;
- .6 engages in serious or repeated worker misconduct in violation of Article 3.3.2;
- .7 engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies; or
- .8 fails to proceed continuously and diligently with the construction and completion of the Work, except as permitted under the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and subject to any prior rights of the surety, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished. Any further payment shall be limited to amounts earned to the date of termination.

§ 14.2.4 If the costs of finishing the Work, including compensation for the Architects' services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, exceed the unpaid balance of the Contract Sum or Guaranteed Maximum Price, (if the Project is a Construction Manager at Risk project), then the Contractor and/or its Surety shall pay the difference to the Owner. The amount to be paid to the Owner shall be certified by Architect upon application. The obligation for payment shall survive termination of the Contract.

§ 14.2.5 The parties hereby agree that: 1) if an order for relief is entered on behalf of the Contractor, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Contractor makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; or 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Contractor's performance of the Contract Documents. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Contractor or its successor in interest adequate assurance of future performance in accordance with the terms and conditions of the Contract Documents. Failure to comply with such

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request within ten (10) days of delivery of the request shall entitle Owner to terminate the Contract and to the accompanying rights set forth in Subparagraphs 14.2.1 through 14.2.6. In all events, pending receipt of adequate assurance of performance and actual performance in accordance with the Contract Documents, Owner shall be entitled to proceed with the Work with Owner's own forces or with other Contractors on a time and material or other appropriate basis, the cost of which will be charged against the Contract Sum.

§ 14.2.6 As required by Texas Government Code Chapter 2253, if a Performance Bond has been furnished and the Contractor is declared by the Owner to be in default under the Contract, then the Surety shall promptly perform the Work, in full accordance with the plans, specifications and Contract Documents. Unless otherwise agreed in writing between the Surety and the Owner, the Surety shall complete the Work by the Surety entering into a Contract acceptable to Owner, with a Contractor acceptable to Owner, and shall obtain new Payment and Performance Bonds as required by law.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum, Guaranteed Maximum Price, and Contract Time may be adjusted, by mutual written agreement, for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Furthermore, if this Contract is a multi-year contract funded through Owner's current general funds that are not bond funds, then the Owner's Board of Trustees has the right to not appropriate adequate monies for the next fiscal year and to terminate this Contract at the end of each fiscal year during the term of the Contract, without the Owner incurring any further liability to Contractor as a result of such termination.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination. Such payment shall not cause the Contract Sum, or Guaranteed Maximum Price, if the Project is a Construction Manager at Risk Project, to be exceeded. Such payment shall not include overhead and profit for Work not executed.

§ 14.4.4 Upon determination by a Court of competent jurisdiction that termination of the Contractor pursuant to Section 14.2 was wrongful, such termination will be deemed converted to a termination for convenience pursuant to Section 14.4, and Contractor's remedy for wrongful termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Section 14.4.

ARTICLE 15 CLAIMS AND DISPUTES OF CONTRACTORS § 15.1 Claims

(Paragraph deleted)

§ 15.1.1 Definition

A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of additional compensation under the Contract Documents, interpretation of the Contract Document terms, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor.

This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

(Paragraphs deleted)

§ 15.1.2 Time Limits on Litigation

The Owner and Contractor shall commence all litigation whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the dispute resolution method selected in the Agreement and within the period specified by applicable law, but in the case of the Owner, not more than 8 years after the date of Final Completion of the Work, unless extended in accordance with Texas Civil Practice and Remedies Code Section 16.009. The Owner and Contractor waive all causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by the Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Architect. Claims by Contractor under this Section 15.1.3.1 must be initiated within 21 calendar days after occurrence of the event giving rise to such Claim or within 21 calendar days after the Contractor first knew or should have known the condition giving rise to the Claim, whichever is earlier. Claims must be initiated by written notice titled "Notice of Claim" ("Notice") and sent to the Architect and Owner's designated representatives. The Notice shall clearly set out the specific matter of complaint, and the impact which may occur or have occurred as a result thereof, to the extent that the impact can be assessed at the time of the Notice. If the impact cannot be assessed as of the date of the Notice, then the Notice shall be amended at the earliest date that is reasonably possible. It is imperative that Owner receive timely specific Notice of any potential problem identified by Contractor in order that the problem can be mitigated or resolved promptly. Claims not filed as required by this Section shall be waived.

§ 15.1.3.2 Claims by the Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7, as amended, and Article 14, as amended, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make undisputed payments for Work performed in accordance with the Contract Documents.

§ 15.1.4.2 *[Intentionally deleted.]*

§ 15.1.5 Claims for Additional Cost or An Increase in the Contract Sum or Guaranteed Maximum Price

If the Contractor wishes to make a Claim for additional cost or an increase in the Contract Sum or Guaranteed Maximum Price, written notice as provided in Section 15.1.3 shall be given to Owner and Architect. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. The Architect will promptly investigate such Claim and report findings and a recommended resolution in writing to the Owner and Contractor. If the Claim is approved by Owner's Board of Trustees, or Owner's representative if provided for herein, then Contractor shall proceed with the execution of the Work that is the subject matter of the Claim. If the Claim is rejected by the Owner, then Contractor may pursue alternative dispute resolution as provided for in the Contract Documents.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and prevented the execution of major items of work on normal working days. "Adverse weather conditions" means unusually severe weather which is beyond the normal weather recorded and expected for the locality and/or the season or seasons of the year. The Contractor shall anticipate and include in the construction

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schedule rain days due to adverse weather conditions. A rain day is defined as a day when rainfall exceeds one-half (.5) inch during a 24-hour period.

§ 15.1.6.3 Time extensions may be granted for rain days in any month when the cumulative number of rain days during that month exceeds the number scheduled, provided that the rainfall prevented the execution of major items of work on normal working days. No day will be counted as a rain day when substantial Contractor forces are able to perform Work on the Project for more than fifty percent (50%) of the usual workday or when the stage of the Work on the Project is not adversely impacted. The number of rain days shown in the above schedule for the first and last months of the Contract will be prorated in determining the total number of rain days expected during the period of the Contract. No delays or extensions shall be granted for mud conditions.

§ 15.1.6.4 No extension of time shall be made to the Contractor because of hindrances or delays from any cause which is the fault of Contractor or Contractor's Subcontractors or under Contractor's control. Claims for extension of time may only be considered because of delays caused by adverse weather conditions, or because of hindrances or delays which are the fault of Owner and/or under Owner's control, but only to the extent that Substantial Completion of the Project is adjusted beyond the original Substantial Completion date. Only claims for extension of time shall be considered because of hindrances or delays not the fault of either Contractor or Owner, but only to the extent that Substantial Completion of the Project exceeds the Substantial Completion date established for the Work. Board approval shall be required for any extension of time. No damages shall be paid for delays. Contractor shall only be entitled to time extensions per the terms of the Contract Documents.

§ 15.1.6.5 Requests for time extension shall be submitted on a monthly basis and shall specify the time delay, the cause of the delay, and the responsible party for the delay, whether Contractor, Owner, rain day, or other. No claims for damages for delay shall be made by Contractor. Any claim not submitted under the terms of this Section shall be waived.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor waives all Claims against Owner for consequential damages arising out of or relating to this *(Paragraphs deleted)*

Contract, including, but not limited to, any amount owed as compensation for the increased cost to perform the Work as a direct result of Owner-caused delays or acceleration.

Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Resolution of Claims and Disputes

§ 15.2.1 Claims by the Contractor against the Owner, including those alleging an error or omission by the Architect, shall be referred initially to the Architect for written recommendation. An initial recommendation by the Architect shall be required as a condition precedent to mediation or litigation of all Claims by the Contractor arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Architect with no recommendation having been rendered by the Architect.

§ 15.2.2 The Architect shall review Claims and within ten days of the receipt of the Claim take one of the following actions: (1) request additional supporting data from the Contractor, or (2) make a written recommendation to the Owner, with a copy to the Contractor.

§ 15.2.3 In evaluating Claims, Architect may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in making a written recommendation.

§ 15.2.4 If the Architect requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Architect when the response or supporting data will be furnished, or (3) advise the Architect that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Architect will either reject or approve the Claim in whole or in part.

§ 15.2.5 Following receipt of the Architect's written recommendation regarding a Claim, the Owner and Contractor shall attempt to reach agreement as to any adjustment to the Contract Sum or Guaranteed Maximum Price and/or Contract Time. If no agreement can be reached, then either party may request mediation of the dispute pursuant to Section 15.3.

§ 15.2.6 Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.6.1 [Intentionally deleted.]

§ 15.2.7 [Intentionally deleted.]

§ 15.2.8 [Intentionally deleted.]

§ 15.3 Alternative Dispute Resolution

§ 15.3.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived under the terms of the Contract Documents, shall, after written recommendation by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation at the request of either party. Owner and Contractor expressly agree that mediation shall be a condition precedent to the initiation of any litigation arising out of such Claims. Claims for injunctive relief shall not be subject to this Section.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation. Requests for mediation shall be filed in writing with the other party to the Contract. Mediation shall be subject to and in accordance with Chapter 154 of the Texas Civil Practice & Remedies Code. Mediation shall be conducted by a mutually-agreed-upon mediator. In the event that the parties are unable to agree on a mediator, then the parties shall jointly request the appointment of a neutral mediator by a District Judge in the county in which the Project is located.

§ 15.3.3 The parties shall share the mediator's fee equally and, if any filing fee is required, shall share said fee equally. Mediation shall be held within the county where the Owner's main administrative office is located, unless another location is mutually agreed upon by the parties. Agreements reached in mediation shall be reduced to writing, considered for approval by the Owner's Board of Trustees, signed by the parties if approved by the Board of Trustees, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

§ 15.3.4 Any claim not resolved in mediation shall be subject to litigation pursuant to Section 13.1.

§ 15.4 No Arbitration

§ 15.4.1 Notwithstanding anything to the contrary in the Contract Documents or in any document forming a part hereof, there shall be NO mandatory arbitration for any dispute arising hereunder.

§ 15.5 Contractor stipulates that Owner is a political subdivision of the State of Texas, and, as such, enjoys immunities from suit and liability provided by the Constitution and laws of the State of Texas. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 15.6 In any adjudication under this Agreement, reasonable and necessary attorneys' fees may be awarded to the prevailing party.

EXECUTED this ___ day of June, 2024.

OWNER:

Dr. Scott Muri
Title: Superintendent
Ector County Independent School District

CONTRACTOR:

By (Printed Name) Chad Henthorn
Title: Chief Executive Officer

Init.



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Anthony Sorola, Associate Superintendent of Athletics, Human Capital, and Operations

SUBJECT: **DISCUSSION OF AND REQUEST FOR APPROVAL OF CONSTRUCTION MANAGER AT RISK CONTRACT BETWEEN ECISD AND TEINERT CONSTRUCTION FOR PERMIAN HIGH SCHOOL AUDITORIUM RENOVATION**

DATE: June 18, 2024

It is the recommendation of the administration that the Board of Trustees approve the Construction Manager at Risk Contract between ECISD and Teinert Construction for Permian High School Auditorium Renovation.

Administrative Recommendation:

Approval of the Construction Manager at Risk contract between Ector County ISD and Teinert Construction for Permian High School Auditorium Renovation.

AIA[®] Document A133[®] – 2019

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

AGREEMENT made as of the 18 day of June in the year 2024
(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, TX 79761

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

Allen Teinert Construction Co., Inc. dba Teinert Construction
1402 Crickets Ave.
Lubbock, TX 79401

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

2023 Bond Program New Construction :
Permian High School Auditorium Renovation

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

Parkhill 1700 W. Wall, Suite 100
Midland, Texas 79701
Phone: (432) 697-1447
Fax: (432) 697-9758

WHEREAS Ector County Independent School District (hereinafter referred to as "Owner") and Teinert Construction (hereinafter referred to as "Construction Manager") desire to enter into a contract under which Construction Manager will perform construction services relating the above-referenced Projects on behalf of Owner;

WHEREAS Owner and Construction Manager have agreed to enter into AIA Document A133TM-2019 Contract ("Contract") as the basic form for that contract; and

ADDITIONS AND DELETIONS:

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

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

AIA Document A201TM-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

WHEREAS certain terms and conditions of the contract must be modified to comply with applicable laws and policies affecting Owner and Construction Manager on this project, Owner and Construction hereby agree to the following amendments to the Contract: TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 GENERAL PROVISIONS
- 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES
- 4 OWNER'S RESPONSIBILITIES
- 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
- 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
- 7 COST OF THE WORK FOR CONSTRUCTION PHASE
- 8 DISCOUNTS, REBATES, AND REFUNDS
- 9 SUBCONTRACTS AND OTHER AGREEMENTS
- 10 ACCOUNTING RECORDS
- 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES
- 12 DISPUTE RESOLUTION
- 13 TERMINATION OR SUSPENSION
- 14 MISCELLANEOUS PROVISIONS
- 15 SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT
EXHIBIT B INSURANCE AND BONDS

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Permian High School Auditorium Renovation

This project will involve major renovations to the current auditorium at Permian High School. ECISD hopes to transform this auditorium into a state of the art performing arts venue. This project will involve major improvements to lighting and acoustics within the auditorium.

- TDG's and Ed Specs as needed.
- As-builts/ Record drawings.
- Renovation overview
- Existing Conditions
- Hazardous Material reports
- Auditorium Discussion

Init.

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User Notes:

(1298230611)

- Acoustical Target - Sound Shell?
- Accessibility
- Upgrades: Finishes and furniture

Systems:

- Lighting (Stage and Lighting)
- AV & Sound
- Stage Equipment
- Rigging
- Concerns and upgrades to existing systems
- HVAC
- Electrical
- Fire protection.

Ancillary Spaces:

- Black box
- Scene shop
- Dress Rooms
- Orchestra Pit

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

Permian High School Auditorium Renovations

-1800 E. 42nd Street, Odessa, Texas 79762

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:

(Provide total and, if known, a line item breakdown.)

Permian High School Auditorium Renovation:

Nine Million Three Hundred Seventy Five Thousand Dollars (\$9,375,000.00)

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

- .1** Design phase milestone dates, if any:

Permian High School Auditorium Renovation: 3/2024 through 3/2025

- .2** Construction commencement date:

Permian High School Auditorium Renovation: 6/2025

- .3** Substantial Completion date or dates:

Permian High School Auditorium Renovation: 12/2025

Init.

4 Other milestone dates:

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

To be determined at a later date.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

(Paragraphs deleted)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Dr. Scott R. Muri, Superintendent of Schools, or his designee
Ector County ISD
802 North Sam Houston
Odessa, TX 79761
Tel.: 432.456.9878

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

§ 1.1.10 The Owner may retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

To be determined at a later date

.2 Civil Engineer:

To be provided by Architect

Init.

- .3 Other, if any:
(List any other consultants retained by the Owner, such as a Project or Program Manager.)

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Scott Reed, AIA, Architect, Senior Associate
1700 W. Wall St
Midland, TX 79701
Phone: (432) 697-1447

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Mr. Chad Henthorn, CEO
Teinert Construction
1402 Crickets Ave.
Lubbock, TX 79401
806.744.2801
chad@teinert.com

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

Colten Nance, Jr. Estimator, Cameron Cohen, Sr. Estimator, Daniel Horton, Pre-Construction Director

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

To be addressed in GMP Amendment and as required in Chapter 2269, Subchapter F of the Texas Government Code.

§ 1.1.15 Other Initial Information on which this Agreement is based:

N/A

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior written notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, as amended, Conditions of the Contract (General, Supplementary and other Conditions), as amended, Drawings, Specifications, Addenda issued prior to execution of this Agreement, all sections of the Project Manual, other documents listed in this Agreement, Modifications issued after execution of this Agreement, the proposal signed by the Construction Manager, the request for proposals, and Construction Manager's

proof of payment and performance bonds, and proof of insurance, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15. Any reference to AIA Document A201-2017 in this Agreement shall be construed as the AIA Document A201-2017, as amended.

§ 2.1.1 Any revision, amendment, or modification to the Standard Form of this Agreement shall be valid, binding, and enforceable only if said revision, amendment or modification is made conspicuous by being underlined, lined-through, or highlighted in this Agreement signed by Construction Manager and the authorized representative of Owner's Board of Trustees. In the event of conflict, terms and conditions contained in the Agreement, as amended, shall take precedence over terms and conditions contained in the General Conditions, as amended, and the terms and conditions in the General Conditions, as amended, shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein.

§ 2.1.2 The Board of Trustees is the only representative of the Owner, an independent school district, having the power to enter into or amend a contract, to approve changes in the scope of the Work, to approve and execute a Change Order or Construction Change Directive modifying the Guaranteed Maximum Price, to agree to an extension to the date of Substantial or Final Completion or to terminate a contract. The Owner designates the following as the individual authorized to sign documents on behalf of the Board of Trustees: Superintendent or his designee.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to perform the Work defined in the Contract Documents, in accordance with the Owner's requirements and construction cost limitations, as approved by the Owner's Board of Trustees, as set forth in the Contract Documents; to furnish efficient construction administration, management services, and supervision; to furnish construction services, if allowed in accordance with law; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents. The Owner and Construction Manager shall endeavor to promote harmony and cooperation among the Owner, Architect, Construction Manager, Construction Manager's subcontractors, and other persons or entities employed by the Owner for the Project.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

(Paragraph deleted)

§ 2.3.2 Per Texas Government Code, Section 2269.257, if a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected, the Construction Manager may itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

§ 2.3.3 For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2017, which document is incorporated herein by reference. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services including preparation of schedules and estimates. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The recommendations and advice of the Construction Manager concerning design alternative and potential cost savings shall be subject to the review and approval of the Architect, Owner, and the Owner's professional consultant. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by, or that reasonably should have been discovered by, or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other. In cooperation with Architect's initial conceptual design, the Construction Manager shall prepare a detailed written report to the Owner setting out an initial cost estimate based on the Owner's Design Standards and Educational Specifications, using industry research, estimated quantities and labor costs, and shall participate in a meeting with the Owner's team and the Architect to review and discuss the conceptual design and initial cost estimate.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction, which shall satisfy Owner's time requirements; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.3.4 During the Preconstruction Phase, the Construction Manager shall review the Contract Documents to ascertain whether the components of the plumbing, electrical and mechanical systems may be constructed without interference with each other, or with the structural or architectural components of the Project, or with existing systems. In the event that conflicts between the systems are discovered, the Construction Manager shall promptly notify the Owner and Architect in writing.

§ 3.1.3.5 Notwithstanding any provision of the General Conditions of the Contract for Construction to the contrary, the Construction Manager shall not be entitled to additional compensation for any delay or disruption to the Work arising from any conflict between the mechanical, electrical, and plumbing systems with each other, or with the structural or architectural components of the Work, or with existing systems, if such conflicts should have been discovered during the Construction Documents Phase by the Construction Manager through the exercise of reasonable diligence, and the Owner and Architect were not informed of such conflicts as required by subparagraph 3.1.3.4. This provision shall apply only with respect to conflicts appearing in the Drawings and Specifications provided for the Construction Manager's review prior to proposal of a Guaranteed Maximum Price.

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§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; dates of Substantial Completion and Final Completion; and the occupancy requirements of the Owner. If updated Project schedules indicate that previously-approved schedules may not be met, then the Construction Manager shall make appropriate recommendations to the Owner and Architect and, upon written approval of both, shall implement necessary corrective action.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues. The Construction Manager shall make recommendations to the Owner and Architect regarding the phased issuance of Drawings and Specifications so as to facilitate the proposal of a Guaranteed Maximum Price when all elements of the Drawings and Specifications are at least ninety percent complete, unless mutually agreed otherwise by the Architect, Owner and the Construction Manager.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action, and/or cost reductions, including but not limited to, substitution of materials or revisions or alterations to the Design Development Documents or the Construction Documents, to bring the Project within the Owner's budget, but shall not delete necessary components of the Project without Owner's Board of Trustees or designee's consent. In the event that the quality or scope identified in the estimates are unacceptable or exceed the Owner's identified budget, the Construction Manager shall work with the Architect to develop options that are acceptable to Owner and are within the Owner's budget.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 For all elements of the Work, the Construction Manager must obtain the Owner's written approval of the packaging of the scope of work for trade contractors or subcontractors, prior to publicly advertising for bids or proposals from trade contractors or subcontractors.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project. To the extent not inconsistent with the Construction Manager's requirements under Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall seek to develop subcontractor interest in the Project and shall furnish to the Owner and Architect for their information a list of possible subcontractors, including suppliers who are to furnish materials or equipment fabricated to a special design, from whom proposals will be requested for each principal portion of the Work. The Architect will promptly reply in writing to the Construction Manager if the Architect or Owner know of any objection to such subcontractor or supplier. The receipt of such list shall not require the Owner or Architect to investigate the qualifications of proposed subcontractors or suppliers, nor shall it waive the right of the Owner or Architect later to object to or reject any proposed subcontractor or supplier.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

N/A

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 When all elements of the Construction Documents are at least 90 percent complete, at a time mutually-agreed upon by the Owner and the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, the general conditions; and the Construction Manager's Fee. If any Guaranteed Maximum Price proposal submitted to the Owner exceeds previously-approved estimates or the Owner's budget, then the Construction Manager shall make appropriate recommendations to the Owner and Architect for cost reductions, including but not limited to, substitution of materials or revisions or alterations to the Construction Documents, to bring the Project within the Owner's budget, but shall not delete necessary components of the Project without Owner's Board of Trustees' consent. In the event that the quality or scope identified in the proposal are unacceptable or exceed the Owner's identified budget, the Construction

Init.

Manager shall work with the Architect to develop options that are acceptable to Owner, are within the Owner's budget, and meet the Owner's requirements for dates of Substantial Completion and Final Completion. The Construction Manager may propose separate Guaranteed Maximum Prices for separate Works within the Project, as schedules and efficiencies dictate. The Construction Manager will work with the Architect to achieve a Guaranteed Maximum Price that is fully acceptable to Owner and is within the Owner's budget for the Work and for the Project.

§ 3.2.2 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.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; general conditions; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based;
- .5 The date of Final Completion upon which the proposed Guaranteed Maximum Price is based, which date shall not be more than thirty (30) days after the date of Substantial Completion; and
- .6 The Guaranteed Maximum Price proposal may not be based in any part on any subcontract or material supply contract which would require the Owner to compensate the Construction Manager on other than a maximum price basis.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. The Guaranteed Maximum Price will contain a separately-identified contingency amount (the "Construction Contingency"). The Construction Contingency is not allocated to any particular item of the Cost of the Work and is established for the Construction Manager's use as may be required for costs incurred in the Work from unforeseeable causes, or details which could not have been anticipated by the Construction Manager at the time of the Owner's approval of the Guaranteed Maximum Price. Such unforeseeable causes or unanticipated details include, but are not limited to, refinement of details of design within the scope of standards, quality and quantities which are reasonably inferable from the Guaranteed Maximum Price documents, the correction of minor defects not relating to design, delays in receipt of materials, and additional costs relating to Subcontractor defaults not reimbursed by the Subcontractor's bonding company. The Construction Manager, with Owner's representative's written approval, may utilize the Construction Contingency for any of the above items within the Cost of the Work without the necessity of a Change Order, without constituting a Change in the Scope of the Work, and without resulting in any change in the Guaranteed Maximum Price. Any unforeseeable causes or unanticipated details which exceed the Construction Contingency shall be borne by the Construction Manager at the Construction Manager's sole risk. All savings will accrue and be available for use, only as detailed above, by the Construction Manager until the Construction Manager's final accounting. In the final accounting, all supporting documentation for all uses of the Construction Contingency shall be provided to Owner. Upon final accounting, all remaining monies in the Construction Contingency shall accrue to the Owner. The Guaranteed Maximum Price shall also include a separately-identified contingency amount, an "Owner's Contingency," which is defined as a contingency fund within the Guaranteed Maximum Price established by the Owner for the Owner's exclusive use. Monies from Owner's Contingency may be spent in the discretion of Owner's Representative and without additional Board of Trustees approval, but with subsequent notice to Owner's Board of Trustees. Any unused Owner's contingency shall accrue to the Owner.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both. As soon as feasible after Architect's preliminary approval of the Construction Manager's proposed Guaranteed Maximum Price, the Architect will prepare the Amendment forms and return them to the Construction Manager for review, signature, and return to the Owner.

Init.

§ 3.2.6 The Owner's Board of Trustees shall be allowed not less than thirty (30) days after receipt of the Construction Manager's signed Guaranteed Maximum Price Amendment to review and take action on the Amendment. Unless the Owner's Board of Trustees accepts the Guaranteed Maximum Price Amendment by Board action within thirty (30) days after District's receipt, the Amendment will not become effective and the Construction Phase will not commence. Following the Board's acceptance of a Guaranteed Maximum Price, the Owner shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall not include in the Guaranteed Maximum Price any taxes from which Owner is exempt.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 The date of commencement of the Work shall mean the date of commencement of the Construction Phase, as provided in Section 8.1.2 of A201-2017.

§ 3.3.1.2 The Construction Phase shall not commence unless and until Owner's Board of Trustees accepts, and Owner's authorized representative executes, the Guaranteed Maximum Price Amendment. The Date of Commencement shall be clarified in the GMP Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 Pursuant to Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall publicly advertise and solicit through competitive purchasing, as required by law, competitive sealed proposals from Subcontractors Pursuant to Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall publicly advertise and obtain bids or proposals from Subcontractors for the performance of all major elements of the Work. All bids or proposals shall be sent directly to Construction Manager.

The Construction Manager may seek to perform portions of the Work required to be publicly advertised. If the Construction Manager submits its own proposal for any portion of the Work, it shall do so in the same manner as required of all subcontractors. Owner shall decide whether or not Construction Manager's proposal for self-performing portions of the Work offers the best value to Owner. In opening proposals, neither Construction Manager nor Owner shall disclose the contents of a proposal during the selection process to anyone who is not an employee of the Construction Manager, architect, engineer, or Owner. All proposals shall be made public within seven days after the Owner's final selection. If Construction Manager's proposal is selected by the Owner, the proposed cost for the self-performed work shall be paid to the Construction Manager, pursuant to progress payments, as if Construction Manager were a subcontractor. Such payments to Construction Manager shall be included in the Cost of the Work, but the Construction Manager shall not receive an additional Construction Manager's fee for self-performed work. Pursuant to Texas Government Code Chapter 2269, Subchapter F, if during the course of recommending proposals, the Construction Manager recommends to Owner a proposal from a subcontractor, but the Owner requires another proposal to be accepted, the Owner shall compensate the Construction Manager by a change in price, time, and/or Guaranteed Maximum Price for any additional cost and risk that the Construction Manager may incur as a result, if such change exists. Construction Manager shall state the additional cost and/or risk in writing and shall provide written proof of same before Owner compensates Construction Manager.

§ 3.3.2.1.1 The Construction Manager shall include the following specific notices in the information to proposers:

- .1 The successful proposer's responsibility to provide workers' compensation insurance in accordance with Texas Labor Code Chapter 406;
- .2 The successful proposer's responsibility to pay prevailing wages pursuant to Texas Government Code Chapter 2258;
- .3 A notice of the sales tax exemption for the Work and the procedure for obtaining any required exemption verification or certificate;
- .4 The notice regarding trench and shoring safety required by Texas Health and Safety Code Section 756.023.

§ 3.3.2.1.2 Nothing herein shall preclude the Construction Manager from including other notices required or allowed by law.

3.3.2.1.3. The Construction Manager shall schedule and conduct weekly or otherwise regularly-scheduled meetings at which Owner, Architect, Construction Manager, and appropriate Subcontractors meetings discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect. The Construction Manager shall provide periodic presentations updating the progress, quality and status of the Work to Owner's Board of Trustees, at Owner's request, at no additional cost to Owner.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment by Owner and Construction Manager, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201-2017, including the Owner's occupancy requirements.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress, including changes to the Work approved by Owner, and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

§ 3.3.3 To the extent that any portion of the Work requires a trench excavation exceeding five (5) feet in depth, in accordance with Texas Health and Safety Code Section 756.023(a), Construction Manager shall fully comply, and shall require any applicable subcontractor to comply, with:

- .1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work.
 - .2 The special shoring requirements, if any, of the Owner.
 - .3 Any geotechnical information obtained by Owner for use by the Construction Manager in the design of the trench safety system.
1. § 3.3.4 shall be added as follows:

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§3.3.4 Trench excavation safety protection shall be a separate pay item, and shall be based on linear feet of trench excavated. Special shoring requirements shall also be a separate pay item, and shall be based on the square feet of shoring used. Said cost shall be included within the Guaranteed Maximum Price.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

[Paragraph intentionally deleted.]

(Paragraph deleted)

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs, including the Owner's Contingency as provided in Section 3.2.4. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. Such documents shall be provided for information only and are not warranted or represented to show the conditions at the Project site accurately. Construction Manager may use the information at its own risk and shall use customary precautions relating to the performance of the Work. Notwithstanding the preceding sentences and the delivery of surveys or other documents and reports by Owner, Construction Manager shall perform all work in such a non-negligent manner so as to avoid damaging any utility lines, cables, pipes, or pipelines on the Property. Contractor shall be responsible for any damage done to such lines, cables, pipes and pipelines during the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law or as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys as provided in Section 2.2.3 of AIA A201-2017.

§ 4.1.4.3 Unless provided by the Architect by agreement with the Owner, the Owner, when such services are reasonably required by the scope of the Work and are requested by the Architect or Construction Manager and approved by the Owner, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner may also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's reasonable written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

Owner's Board of Trustees shall designate one or more authorized representatives to act on its behalf in the day-to-day administration of the Project, to issue stop work orders, and to authorize expenditures within the Owner's contingency. The Board designates as its authorized representatives, the following individuals: Dr. Scott Muri, Superintendent, or his designee.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that the Owner may determine to be reasonably necessary at any time for the Project to meet the Owner's needs and interests. Construction Manager shall furnish all legal, insurance, and accounting services that Construction Manager may determine to be necessary to meet Construction Manager's needs and interests.

§ 4.3 The Construction Manager's services shall be provided in conjunction with the services of an Architect. The terms of the agreement between the Owner and Architect shall be available for inspection by the Construction Manager upon request.

§ 4.4 Inspection and Testing. Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement. Pursuant to Texas Government Code Section 2269.058, the Owner shall provide or contract for, independently of the Construction Manager, construction materials engineering, and testing and inspection services necessary for acceptance of the Work by Owner."

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

Seven Thousand Three Hundred Fifty Four Dollars (\$7,354.00)

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

N/A

(Table deleted)

§ 5.1.2.1 [Intentionally deleted.]

§ 5.1.3 NOT USED

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the

(Paragraphs deleted)

maximum rate permitted by law, in accordance with Texas Government Code Chapter 2251.

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 Owner shall not be obligated or have any duty to compensate Construction Manager for any Construction Phase Services unless and until the Guaranteed Maximum Price Amendment is first approved by the Owner's Board of Trustees and executed by Owner. The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee, plus the general conditions, the total of which shall not exceed the Guaranteed Maximum Price.

§ 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

PHS Auditorium Renovation: One Hundred Seventy Eight Thousand One Hundred Twenty Five Dollars (\$178,125.00)

No Construction Manager's fee shall be paid on the Construction Manager's Contingency or the Owner's Contingency until funds are allocated from those contingencies to the Cost of the Work, or as provided in Section 2.3.2.1.

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§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

Fee shall be adjusted at One point Nine percent (1.9%) for changes in the work or any scope increases that cause the project to go over budget listed herein.

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work: A Subcontractor's overhead and profit attributable to increases in the cost of its portion of the Work, as evidenced by executed Change Order(s) identifying the same, shall not exceed the amounts allowed in Article 7 of the A201 General Conditions, as modified by the Owner.

(Paragraph deleted)

§ 6.1.5 General Conditions. All charges, if any, for general conditions (costs to be reimbursed) shall be delineated separately in the Guaranteed Maximum Price Amendment, and may include only the following: on-site Project Manager; on-site Project and Site Superintendents; on-site Assistant Superintendents; minor work that may be included in the general conditions as allowed by Texas Government Code Section 2269.255; office trailer expenses; on-site sanitary facilities; project sign; safety/first aid; on-site technology; temporary water and power; project site office supplies and office equipment; plan reproduction; construction photographs; dumpsters; final clean-up; equipment rental; fuel; small tools; and items described in more detail below.

§ 6.1.6 Rental rates for Construction Manager-owned equipment shall be subject to the Owner's prior approval and shall not exceed Eighty percent (80 %) of the standard rental rate paid at the place of the Project.

(Paragraphs deleted)

§ 6.1.7 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.

§ 6.1.8 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries, for Construction Manager's on-site Project Manager, on-site Project and Site Superintendents, on-site Assistant Superintendents, and Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.

§ 6.1.9 Actual rental charges for temporary facilities, machinery, equipment and hand tools not included in Section 6.5.1 and not customarily owned by construction workers that are provided by the Construction Manager at the site and costs of transportation, installation, minor repairs, dismantling and removal.

§ 6.1.10 The general conditions shall not include the following: all reimbursement for profit; indirect costs; all telephone bills for all personnel; all facsimile charges; home office personnel and benefits assigned to the Project; home office overhead and expenses; home office personnel relocation; all home office accounting, audit, legal and data processing fees and expenses; and all travel, meals and lodging.

§ 6.1.11 Liquidated Damages, if any:

.1 Time is of the essence in all phases of the Work. It is specifically understood and agreed by and between Owner and Construction Manager 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 Construction Manager's failure, neglect or refusal to achieve said deadlines. Such actual and direct 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 Construction Manager that the amounts stated below are the minimum value of the costs and actual and direct damages caused by failure of Construction Manager to substantially complete the work within the allotted times, that such sums are liquidated direct damages and shall not be construed as a penalty, and that such sums may be deducted from payments due Construction Manager 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

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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 miscellaneous increased costs, all of which are difficult to exactly ascertain. Failure to complete the Work within the designated or agreed extended dates of Substantial or Final Completion, shall be construed as a breach of this Agreement.

.2 It is expressly agreed as a part of the consideration inducing the Owner to execute this Agreement that the Owner may deduct from the Final Payment made to the Construction Manager a sum as later to be set forth in the GMP Amendment for each and every additional calendar day beyond the agreed date of Substantial Completion.

.3 Timely Final Completion is an essential condition of this Agreement. Construction Manager agrees to achieve Final Completion of the Agreement within 30 days of the designated or extended date of Substantial Completion. Owner and Construction Manager agree that should Construction Manager fail to achieve Final Completion of the Agreement by the deadline, Owner shall continue to be damaged to a greater degree by such delay. Construction Manager 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 As later to be set forth in the GMP Amendment. Owner may deduct from the Final Payment made to Construction Manager, or, if sufficient funds are not available, then Construction Manager 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 Such damages shall be in addition to, and not in lieu of, any other rights, claims or remedies Owner may have against Construction Manager. 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.

§ 6.1.12 Other:

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

Cost Savings Split: Owner: 100%, CM: 0%

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents, and the Dates of Substantial Completion and Final Completion shall be subject to adjustment as provided in the Construction Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner. Should the final audited Contract Sum be less than the Guaranteed Maximum Price, then the difference between the Contract Sum and the Guaranteed Maximum Price shall be considered as savings to the Owner, and Owner shall have no obligation to pay same to the Construction Manager. Construction Manager shall also consider as savings to the Owner all unused funds from any Contingency account. The Construction Manager shall not participate in any savings; all savings shall be credited to Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner, with Board of Trustees' approval, if appropriate, may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. Either the Construction Manager or the Owner, as appropriate, may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction, as amended for this project.

§ 6.3.2 Increases or decreases, if any, to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction, as amended for this project.

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§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee may be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean the following direct, actual and verifiable costs reasonably and necessarily incurred by the Construction Manager in the proper performance of the Work, except those costs compensated as general conditions under Section 6.1.5 above. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7. Cost of the Work that exceeds the Guaranteed Maximum Price shall be borne by the Construction Manager.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior written approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform any portion of the construction of the Work at the site or, with the Owner's prior written approval, at off-site workshops, to the extent allowed by Texas Government Code Sections 2269.255 or 2269.275.

§ 7.2.2 *[Intentionally deleted.]*

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and, to the extent same are not compensated under general conditions, are directly attributable to and required for the Work, and are approved by the Owner.

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

To be listed in Assumptions & Clarifications Attachment to GMP Amendment

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work and to the extent same are not compensated under general conditions, are directly attributable to and required for the Work, and are approved by the Owner.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for employment-related taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3, to the extent not compensated under general conditions.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

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§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts. Any Subcontract Work to be performed by the Construction Manager's own forces on the basis of a bid or proposal submitted by the Construction Manager per Section 3.3.2.1, as amended, shall be treated as Work performed by a Subcontractor under this Section. The Construction Manager's compensation for such Subcontract Work performed shall be based on the amount of the bid or proposal submitted by the Construction Manager for such Work, rather than "actual costs" as provided elsewhere in Article 6 of this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

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

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

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Except for items included as general conditions, costs of transportation, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 *[Intentionally deleted.]*

§ 7.5.3 To the extent not compensated under general conditions, costs of removal of debris from the site of the Work and its proper and legal disposal, other than final clean-up.

§ 7.5.4 To the extent not compensated under general conditions, costs of the Construction Manager's site office, including general office equipment and supplies.

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

§ 7.6 Miscellaneous Costs

§ 7.6.1 To the extent not compensated under general conditions, premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

*[Intentionally deleted.] [Intentionally deleted.]
(Paragraphs deleted)*

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority for materials that are related to the Work, but not incorporated into the Work, and for which the Construction Manager is liable and Owner is not exempt. Construction Manager shall be obligated to take reasonable care to obtain all applicable tax exemptions.

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

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201-2017 or by other provisions of the Contract Documents and paid by the Construction Manager.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

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[Intentionally deleted.] [Intentionally deleted.] [Intentionally deleted.]
(Paragraphs deleted)

§ 7.6.8 Deposits lost for causes directly resulting from the Owner's wrongful actions or decisions.

[Intentionally deleted.] [Intentionally deleted.] [Intentionally deleted.]
(Paragraphs deleted)

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, to the extent same are not compensated under general conditions, are directly attributable to and required for the Work, and are approved by the Owner.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 *[Intentionally deleted.]*

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9, or other provision of or amendment to this Agreement. However, notwithstanding anything in Article 7 to the contrary, no reimbursable cost or expense will be paid again if it is also included and paid in any general conditions amount submitted by Construction Manager.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner in writing of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails or refuses to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

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

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;

(Paragraph deleted)

- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded;
- .9 Costs for services incurred during the Preconstruction Phase;
- .10 Delay damages or claims;
- .11 Storage costs, unless with prior written owner approval;

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- .12 All costs intentionally excluded in Article Section 6 above, including all subsections; and
- .13 All items included in either general conditions under Section 6.1.5 above, or the Construction Manger's Fee in Section 6.1.2. above.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Construction Manager shall take advantage of all available discounts, rebates, and refunds for supplies, materials, and equipment connected with the Work, and which conform to the Contract Documents, which discounts, rebates, and refunds shall accrue to the benefit of the Owner. Cash Discounts obtained on payments made by the Construction Manager shall accrue to the Owner. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

§ 9.3 Pursuant to Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall publicly advertise and solicit through competitive purchasing, as required by law, competitive sealed proposals from Subcontractors Pursuant to Texas Government Code Chapter 2269, Subchapter F, the Construction Manager shall publicly advertise and obtain bids or proposals from Subcontractors for the performance of all major elements of the Work. All bids or proposals shall be sent directly to Construction Manager.

§ 9.4 The Construction Manager shall include the following specific notices in the information to proposers:

- .1 The successful proposer's responsibility to provide workers' compensation insurance in accordance with Texas Labor Code Chapter 406;
- .2 The successful proposer's responsibility to pay prevailing wages pursuant to Texas Government Code Chapter 2258;
- .3 A notice of the sales tax exemption for the Work and the procedure for obtaining any required exemption verification or certificate;

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.4 The notice regarding trench and shoring safety required by Texas Health and Safety Code Section 756.023.

.5 The following shall be included in any information to proposers, Request for Proposals, or Bid Documents:

"By submitting a bid or proposal, each bidder or proposer agrees to waive any claims it has or may have against the Owner, the Architect, the Construction Manager, and their respective officers, trustees, employees, agents, or representatives, arising out of or in connection with the administration, evaluation, recommendation, or selection of any bid or proposal; waiver of any requirements under the bid or proposal documents or contract documents; acceptance or rejection of any bid or proposal; and award of the contract."

§ 9.5 Nothing herein shall preclude the Construction Manager from including other notices required or allowed by law.

§ 9.6 The Construction Manager may seek to perform portions of the Work required to be publicly advertised. If the Construction Manager submits its own proposal for any portion of the Work, it shall do so in the same manner as required of all subcontractors. Owner shall decide whether or not Construction Manager's proposal for self-performing portions of the Work offers the best value to Owner. In opening proposals, neither Construction Manager nor Owner shall disclose the contents of a proposal during the selection process to anyone who is not an employee of the Construction Manager, architect, engineer, or Owner. All proposals shall be made public within seven days after the Owner's final selection. If Construction Manager's proposal is selected by the Owner, the proposed cost for the self-performed work shall be paid to the Construction Manager, pursuant to progress payments, as if Construction Manager were a subcontractor. Such payments to Construction Manager shall be included in the Cost of the Work, but the Construction Manager shall not receive an additional Construction Manager's fee for self-performed work. Pursuant to Texas Government Code Chapter 2269, Subchapter F, if during the course of recommending proposals, the Construction Manager recommends to Owner a proposal from a subcontractor, but the Owner requires another proposal to be accepted, the Owner shall compensate the Construction Manager by a change in price, time, and/or Guaranteed Maximum Price for any additional cost and risk that the Construction Manager may incur as a result, if such change exists. Construction Manager shall state the additional cost and/or risk in writing and shall provide written proof of same before Owner compensates Construction Manager.

§ 9.7 Per Texas Government Code Section 2269.257, if a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected, the Construction Manager may itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors, and other representatives shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of ten (10) years after the date of Final Completion, or for such longer period as may be required by law.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 11.1.3

The Construction Manager shall submit monthly Applications for Payment to both the Architect and Program Manager, if applicable, on AIA Form G702 for approval. Continuation sheets shall be submitted on AIA Form G703. If the Architect and Program Manager, if applicable, approve the application, then they shall submit a Certificate for Payment to the Owner. The Architect and Program Manager, if applicable, may require any additional information deemed necessary and appropriate to substantiate the Application for Payment. The Owner shall have the right to withhold from payments due Construction Manager such sums as are necessary to protect Owner against any loss or damage which may result from negligence by Construction Manager or failure of Construction Manager to perform Construction Manager's obligations under this Contract. Materials that are verified to be on the jobsite or other approved location for use in the Project may also be incorporated into the Application for Payment. The Architect and Program Manager, if applicable, shall have seven (7) days from date of receipt from the Construction Manager of an Application for Payment to approve or reject all or any part of the Application for Payment. The Owner shall pay the undisputed amounts certified by the Architect and Program Manager, if applicable, to the Construction Manager within thirty (30) days of receipt of the Certificate for Payment from the Architect and Program Manager, unless otherwise provided in the Contract Documents. Undisputed amounts unpaid after the date on which payment is due shall bear interest pursuant to Texas Government Code Section 2251.025. **§ 11.1.4** With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee. Each Application for Payment shall also include a list, with backup data, of how each payment shall be spent, including a list detailing which subcontractors and suppliers will be paid out of funds paid by the Owner and the amount of such payments to subcontractors and suppliers, and in the next payment cycle, proof of each payment to Construction Manager's subcontractors and suppliers after payment. The Construction Manager shall promptly pay all bills validly due and owing for labor and material performed and furnished by others in connection with the performance and construction of the Work.

(Paragraph deleted)

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values, less any unused Owner's contingency and unused Construction Manager's contingency, shall allocate the entire Guaranteed Maximum Price among: (1) the various portions or classifications of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee. The Construction Manager's fee shall be shown as a separate line item on the schedule of values.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect and Program Manager, if applicable, may require. The format and tracking method of the original schedule of values and of all updates to the schedule of values shall be subject to the approval of the Architect and Program Manager, if applicable. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment. If at any time, the amount shown on the schedule of values exceeds the Guaranteed Maximum Price allocable to that portion or classification of the Work, then the amount payable to Construction Manager by Owner shall be reduced by the amount of such excess.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion or classification of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) classification on the schedule of values.

§ 11.1.7 In accordance with AIA Document A201-2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

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- .1 That portion or classification of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion or classification of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors, accountants, or other representatives, in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.
- .7 Subtract retainage of Five percent (5%) of the remaining amount, including the Construction Manager's Fee, of the progress payment.
- .8 The progress payment amount determined in accordance with this Section shall be further modified under the following circumstances:
 - .1 Add, if Final Completion of the Work is thereafter materially delayed by Owner or Owner's agents through no fault of the Construction Manager, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201- 2017, as amended.
 - .2 If Owner is entitled to deduct liquidated damages, or any other damages or amounts provided in the Contract Documents, including clean-up fees, then Owner shall be entitled to deduct such liquidated damages, amounts and fees due Construction Manager at any time.

.3 If Construction Manager fails or refuses to complete the Work, or has unsettled claims with Owner, then any final payment to Construction Manager shall be subject to deduction for such amounts as the Architect and Program Manager, if applicable, shall determine as the cost for completing incomplete Work and the value of unsettled claims.

§ 11.1.7.3 Payment for materials and/or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest and shall include the costs of applicable insurance (naming the Owner as additional insured) and transportation to the site for those materials and equipment stored off the site. Under no circumstances will the Owner reimburse the Contractor for down payments, deposits, or other advance payments for materials or equipment. Payments shall be made on account of materials and equipment (a) incorporated in the Work, (b) suitably stored at the Project site, or (c) suitably stored at some off-site location provided the following conditions are met for off-site storage:

- .1 The location must be agreed to, in writing, by the Owner and Surety;

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- .2 The location must be a bonded warehouse;
- .3 The Surety must agree, in writing, to each request for payment; and
- .4 The Contractor must bear the cost of the Owner's and Architect's expenses related to visiting the off-site storage area.

§ 11.1.7.4 In the event of Contract termination or default by the Contractor, the items stored off the site, upon which payment has been made, will be promptly turned over to the Owner or Owner's designated representative at a location near the Project site as directed by the Owner or Owner's designated representative. The full provisions of Performance and Payment Bonds on this Project cover the materials stored off the site in every respect as though they were stored on the Project site.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

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

Retainage is managed in conformance with Texas Government Code Chapter 2252, subchapter B.

§ 11.1.8.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

N/A

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be subject to written consent of the Contractor's Surety, and as follows:

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

Retainage maybe reduced at Owner's sole discretion.

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Final Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Final Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

N/A

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Construction Manager shall submit a claim in accordance with Article 15 of AIA Document A201-2017, as amended.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site. If the Contractor wishes to bill for materials or equipment which cannot be stored on site, the Contractor shall, along with the request for approval, provide evidence of purchase, evidence of delivery in good order without damage, and a certificate of insurance specifically covering the material identified by way of serial numbers, bill of lading, and copy of signature of receipt of materials and photography showing material. The Contractor shall also require, at the Owner's request, proof that the facility at which the materials or equipment is stored is bonded. Security and protection from theft and damage remains on the Contractor as the first line of accountability and financial responsibility. Delays due to issues arising from stored materials shall not be considered as reasonable justification to release the Contractor from meeting the schedule unless the Owner agrees to such delay in writing in advance of notification to the Owner of any delay. § 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors., The percentage of retainage held on Subcontracts shall be the same percentage of retainage withheld

from Construction Manager. The Construction Manager shall execute subcontracts that contain the same terms and conditions as those contained in this Agreement.

(Paragraph deleted)

§ 11.1.12 In submitting Construction Manager's Applications for Payment, Construction Manager shall be responsible for all errors or omissions. Owner shall not be responsible for Construction Manager's errors or omissions.

§ 11.2 Final Payment

§ 11.2.1 Final payment shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, including the Construction Manager's responsibility to correct Work, except for the Construction Manager's responsibility to satisfy other requirements, if any, which Owner agrees in writing necessarily extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment that are certified by Construction Manager and reviewed and approved by the Owner's auditors or other representatives;
- .3 a final Certificate for Payment has been issued by the Architect and approved by Program Manager, if applicable, in accordance with Section 11.2.2.2;
- .4 Construction Manager has provided all documents required by Section 9.10.2 of AIA Document A201-2017, as amended; and
- .5 Owner's Board of Trustees has voted to accept the Work and approve Final Payment.

§ 11.2.2 Within sixty (60) days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' or other representatives' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017 as amended. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201-2017 as amended. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' or other representatives' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to proceed in accordance with Article 12 without a further decision of the Architect. Unless otherwise agreed in the Contract Documents, a demand for mediation or other dispute resolution as provided in the Contract Documents, of the disputed amount shall be made by the Construction Manager within the timeline established in Section 15.2 of A201-2017, as amended, after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this time period shall result in the substantiated amount reported by the Owner's auditors or other representatives becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the Owner's Board approval. The Construction Manager must certify completion of all Work, including all listed in Section 9.10.2 of the AIA Document A 201-2017, as amended, for the Project, cleanup, and delivery of record documents prior to or with the Application for Final Payment.

§ 11.2.3.1 The amount of the final payment shall be calculated as follows:

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- .1 Begin with the actual Cost of the Work substantiated by the Construction Manager's final accounting, which includes deductions for all discounts and unused contingencies, and construction savings achieved in the Cost of the Work, if applicable.
- .2 Add the actual expended general conditions substantiated by the Construction Manager's final accounting, which includes savings to the Owner for unused general conditions.
- .3 Add the Construction Manager's Fee.
- .4 Subtract amounts, if any, for which Architect or Owner disputes, refuses or withholds payment, if any.
- .5 If Owner is entitled to deduct liquidated damages or any other damages or amounts provided in the Contract Documents, including clean-up fees, then subtract all such liquidated damages, amounts and fees.
- .6 If Construction Manager fails or refuses to complete the Work, or has unsettled claims with Owner, then subtract such amounts as the Architect shall determine as the cost for completing incomplete Work and the value of unsettled claims.
- .7 Subtract all previous payments made by the Owner.
- .8 In no event shall the total of subsections .1, .2, and .3 above exceed the Guaranteed Maximum Price.
- .9 If the aggregate of previous payments made by the Owner exceeds the amount due the Construction Manager, the Construction Manager shall reimburse the difference to the Owner, plus interest as allowed by law.

§ 11.2.4 If, subsequent to final payment, and at the Owner's prior written request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7 that are not excluded by Section 7.9, to correct defective or nonconforming Work that is not the fault of the Construction Manager or arising from the resolution of a dispute, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price.

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the maximum rate permitted by law, in accordance with Texas Government Code Chapter 2251. *(Insert rate of interest agreed upon, if any.)*

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim by the Construction Manager regarding any matter between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017, as amended. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision or recommendation by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution.

[Paragraphs Intentionally deleted]

(Paragraphs deleted)

§ 12.1.3 When Owner has an applicable claim for construction defects, Owner shall comply with the provision of Texas Government Code Chapter 2272 related to the provision of notice of defects and the Construction Manager's or Architect's opportunity to cure.

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

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(Check the appropriate box.)

- Arbitration pursuant to Article 15 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction, with proper venue being the county where the Project is located.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work properly authorized by Owner in writing and performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

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§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017, as amended.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, as amended, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall only be responsible for payment as required under Article 14 of AIA Document A201–2017, with no termination fee or penalty.

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)

N/A

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017, as amended; in such case, the Guaranteed Maximum Price, if established, and Contract Time may be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Unless otherwise noted, terms in this Agreement shall have the same meaning as those in A201–2017, as amended. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. The Construction Manager shall not assign this Agreement or the Contract in whole or in part without the prior written consent of the Owner’s Board of Trustees. If Construction Manager attempts to make such an assignment without such consent, the Construction Manager shall nevertheless remain legally responsible for all obligations under the Contract. This does not prevent Construction Manager from engaging subcontractors to perform various phases of the Project in accordance with law, but Construction Manager shall be fully responsible to Owner for the work, actions and omissions of all such subcontractors.

[Paragraph intentionally deleted]

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall purchase and maintain insurance as required by Article 11, A201-2017 as amended for this Project, to protect Construction Manager and Owner against all claims, damages, lawsuits, indemnities, or other actions which may arise out of or result from the Construction Manager’s operations under this Contract, whether such operations are by Construction Manager, or by any subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable. Prior to performing the Work, the Construction Manager shall provide separate performance and payment bonds in accordance with AIA Document A201- 2017 Section 11.5.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000.00) for each occurrence and two million dollars (\$ 2,000,000.00) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned hired, or any other vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000.00) than those stated below per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

(Note: Texas statutory minimum for school districts is \$100,000.00 per person, \$300,000.00 per occurrence, and \$100,000.00 property damages.) Such minimum limits shall be stated as follows, or in a combined single limit policy in the amount of at least \$1,000,000.00

.1	Bodily Injury (per person)	\$ 100,000.00 _____
.2	Bodily Injury (per accident)	\$ 300,000.00 _____
.3	Property Damage	\$ 100,000.00 _____

§ 14.3.1.3 The Construction Manager may not achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance. In no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

(Paragraphs deleted)

§ 14.3.1.4 Umbrella Excess Liability coverages shall be in at least the following amounts:

.1	\$ 5,000,000.00	Each Occurrence
.2	\$ 5,000,000.00	Aggregate
.3	\$ 5,000,000.00	Aggregate per Project Endorsement

§ 14.3.15 Workers’ Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$ 1,000,000.00) each accident, one million dollars (\$ 1,000,000.00) each employee, and one million dollars (\$ 1,000,000.00) policy limit.

§ 14.3.1.5.1 Texas Workers’ Compensation Insurance. A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance (TDI), or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory worker’s compensation insurance coverage for the Contractor’s employees providing services on a Project is required for the duration of the Project.

§ 14.3.1.5.1.2 Duration of the Project include the time from the beginning for the Work on the project until the Contractor’s Work on the Project has been completed and accepted by Owner.

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§ 14.3.1.5.1.3 Persons providing services on the Project ("Subcontractor" in Texas Labor Code Section 406.096) include all persons or entities performing all or part of the services the Contractor has undertaken to perform on the Project, regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operations, employees of any such entity, or employees of an entity that furnishes persons to provide services on the Project.

§ 14.3.1.5.1.4 Services include, without limitation, providing, hauling or delivering equipment or materials, or providing labor, transportation, or other services related to the Projects. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

§ 14.3.1.5.1.5 The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all employees of the Contractor providing services on the Project for the duration of the Project.

§ 14.3.1.5.1.6 The Contractor must provide a certificate of coverage to the Owner prior to being awarded the Contract.

§ 14.3.1.5.1.7 If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the Project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.

§ 14.3.1.5.1.8 The Contractor shall obtain from each person providing services on the Project, and provide to the Owner:

.1 A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have, on file, certificates of coverage showing coverage for all persons providing services on the Project; and

.2 No later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

§ 14.3.1.5.1.9 The Contractor shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.

§ 14.3.1.5.1.10 The Contractor shall notify the Owner, in writing by certified mail or personal delivery, within ten (10) days after Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.

§ 14.3.1.5.1.11 The Contractor shall post on each Project site a notice, in the text form and manner prescribed by the TDI, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

§ 14.3.1.5.1.12 The Contractor shall contractually require each person with whom it contracts to provide services on the Project to:

- .1 Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all of its employees providing services on the Project for the duration of the Project:
- .2 Provide to the Contractor, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project for the duration of the Project;
- .3 Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
4. Obtain from each other person with who it contracts, and provide to the Contractor:
 - .1 A certificate of coverage, prior to the other person beginning work on the Project; and
 - .2 A new certificate of coverage showing extension of coverage, prior to the end of the coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

- .5 Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;
- .6 Notify the Owner in writing by certified mail or personal deliver, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and
- .7 Contractually require each person with whom in contracts to perform as required by items 1-6, with the certificates of coverage to be provided to the person for whom they are providing services.

§ 14.3.1.5.1.13 By signing the Contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the Owner that all employees of the Contractor who will provide services on the Project will be covered by worker's compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier, or, in the case of a self-insured, with the TDI's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

§ 14.3.1.5.1.14 The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the Owner to declare the Contract void if the Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the Owner.

§ 14.3.1.5.1.15 The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued or delivery, or renewed on or after January 1, 1996.

28 TAC Section 110.110(i)

(Table deleted)

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and or, if no Exhibit B is included, as specified in Article 11 of AIA Document A201-2017, as amended by Owner.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™-2019 Exhibit B, and elsewhere in the Contract Documents.

§ 14.4

(Paragraphs deleted)

NOT USED § 14.5 Other provisions:
§ 14.5.1 Criminal History Checks. So that Owner can obtain the national criminal history record information required by Texas Education Code Chapter 22.08341 on all "covered employees," (as defined in Section 3.4.6.3.) of Contractor, its subcontractors, or any subcontracting entities who will perform the Work, Contractor shall submit to Owner the name and all necessary identifying information necessary to enable Owner to obtain the national criminal history information on those covered employees before they begin the Work. Contractor's

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submission will include the employee's written authorization for Owner to obtain such criminal history information. Owner may, in its sole discretion, prohibit the use of any employee to perform the Work after its review of the criminal history information, but cannot disclose the criminal history information to Contractor. Contractor shall reimburse Owner for Owner's costs incurred in obtaining the criminal history information.

§ 14.5.2 Contractor will not assign any "covered employee" with a "disqualifying criminal history," as those terms are defined below, to work on the Project. If Contractor receives information that a covered employee has a reported disqualifying criminal history, then Contractor will immediately remove the covered employee from the Project and notify the Owner in writing within three (3) business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Contractor agrees to discontinue using that covered employee to provide services on Owner's Project. If Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees, Contractor will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 14.5.3 For the purposes of this Section, "covered employees" means employees, agents, or applicants of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means: any conviction or other criminal history information designed by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification under Texas Education Code Section 21.060, and 19 Texas Administrative Code Section 249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school; a felony offense under Texas Penal Code Title 5 Offense Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or an equivalent offense under federal law or the laws of another state.

§ 14.5.4 On request of Owner, Contractor shall provide all necessary identifying information to allow Owner to obtain criminal history record information for covered employees of the Contractor and all subcontractors. Contractor shall update this list on Owner's request.

§ 14.5.5 Owner's Additional Requirements Related to Criminal Histories. In addition, as provided in Section 3.4.6.1 above, Owner or Contractor will at least annually obtain criminal history record information that relates to any employee, agent, or applicant of the Contractor, if the person has or will have duties related to the Project, and the duties are or will be performed on Owner's Project, or at another location where students are likely to be present. Contractor shall assume all expenses associated with the background checks and shall immediately remove any employee, agent, or subcontractor who was convicted of a felony or a misdemeanor involving moral turpitude from Owner's property, or other location where students are likely to be present. Owner shall determine what constitutes "moral turpitude" or a "location where students are likely to be present."

§ 14.5.6 By executing this Agreement, Contractor verifies that it does not boycott Israel, and it will not boycott Israel during the terms of this Contract. Pursuant to Texas Government Code, Chapter 2271, as amended, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Contractor represents and warrants to the Owner that the Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.

§ 14.5.7 Contractor verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Contractor has misrepresented its inclusion on the Comptroller's list, such omission or misrepresentation will void this Contract.

§ 14.6

- .1 By entering into this Contract, pursuant to Texas Government Code 552, Subchapter J, the Contractor agrees to be bound by the following terms if the Contract has a stated expenditure of at least \$1,000,000 for the purchase of goods or services by the District or if the Contract results in the expenditure of at

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least \$1,000,000 in public funds for the purchase of goods or services by the District in a fiscal year of the District. If the District receives a written request for public information related to this Contract that is in the possession or custody of the Contractor and not in the possession or custody of the District, the District shall send, not later than the third business day after the date the District receives the written request, a written request to the Contractor that Contractor provide that information to the District.

.2 The Contractor must:

.1 Preserve all contracting information related to the Contract as provided by the records retention requirements applicable to the District for the duration of the Contract;

.2 Promptly, within four business days, provide to the District any requested contracting information that is in the custody or possession of the Contractor upon request of the District; and,

.3 On completion of the Contract, either:

.1 Provide to the District at no cost all contracting information related to the Contract that is in the custody or possession of the Contractor; or

.2 Preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the District.

.3 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract and the Contractor agrees that the contract can be terminated if the Contractor knowingly or intentionally fails to comply with the requirements of that subchapter.

.4 Further, under Texas Government Code Chapter 552.372(c), the District may not accept a bid for or awarding of a contract to an entity that the District has determined has knowingly or intentionally failed in a previous bid or contract to comply with Subchapter J, unless the District determines and documents that the entity has taken adequate steps to ensure future compliance.

.5 If a Contractor fails to provide to the District the requested information, Texas Government Code Chapter 552.373 requires the District to notify the Contractor in writing of the failure and allow 10 business days to cure the violation. District may terminate the Contract if Contractor fails to remedy the failure, District determines the failure was knowing and intentional, and steps have not been taken to ensure future compliance."

.6 If Contractor is not a sole proprietorship, has ten (10) or more employees, and the value of Contractor's bid or proposal has a value of \$100,000 or more, Contractor certifies by submitting Contractor's bid or proposal that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined by Texas Government Code Ann. Chapter 2274, and will not during the term of any contract with the Owner, unless excepted from that law.

7. As required by Texas Government Code Ann. Chapter 2274, if Contractor has ten (10) or more employees, is not a sole proprietorship, and if the value of Contractor's bid or proposal has a value of \$100,000 or more, Contractor certifies by submitting Contractor's bid or proposal that it does not boycott energy companies and will not during the term of any contract with the Owner, unless excepted by that law.

§ 14.7 The Contractor verifies by its signature below that it is not an abortion provider or an affiliate of abortion providers.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Contract represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both Owner and Construction Manager. If any portion of this Contract is determined

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to be invalid, unenforceable, or void, then that portion shall be severed, and all other portions of this Contract shall remain in full force and effect.

§ 15.2 The following documents are included in the Contract, in addition to those listed in Section 1.1.:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, once and ifexecuted
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction
(Paragraphs deleted)
as amended by Owner
- .5

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

OWNER *(Signature)*

Dr. Scott Muri Superintendent
(Printed name and title)

CONSTRUCTION MANAGER *(Signature)*

Chad Henthorn Chief Executive Officer
(Printed name and title)

AIA[®] Document A201[®] – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

2023 Bond Program New Construction
Permian High School Auditorium Renovation

THE OWNER:

(Name, legal status and address)

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

THE ARCHITECT:

(Name, legal status and address)

Parkhill
1700 W. Wall, Suite 100
Midland, TX 79701

THE CONTRACTOR:

Allen Teinert Construction Co., Inc. dba Teinert Construction
1402 Crickets Ave.
Lubbock, TX 79401

WHEREAS Ector County Independent School District (hereinafter referred to as "Owner") and Teinert Construction (hereinafter referred to as "Contractor") desire to enter into a contract under which Construction Manager will perform construction services relating the above-referenced Projects on behalf of Owner;

WHEREAS Owner and Contractor have agreed to enter into AIA Document A201-2017 Agreement ("Contract") as the basic form for that contract; and

WHEREAS certain terms and conditions of the contract must be modified to comply with applicable laws and policies affecting Owner and Contractor on this project, Owner and Contractor hereby agree to the following amendments to the Contract:

ADDITIONS AND DELETIONS:

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

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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User Notes:

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), all sections of the Project Manual and Construction Documents (as defined in §1.1.3 below) including Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Any reference to Contract Documents herein shall include the Construction Documents, and any other documents included in the Contract Documents, as amended and/or supplemented for this Project.

§ 1.1.1.1 The Agreement, represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. Any revision, amendment, or modification to the Standard Form of the Agreement shall be valid, binding, and enforceable only if said revision, amendment or modification is made conspicuous by being underlined, lined-through, or highlighted in this Agreement signed by Contractor and the authorized representative of Owner's Board of Trustees. In the event of conflict, terms and conditions contained in the Agreement, shall take precedence over terms and conditions contained in the General Conditions, and the terms and conditions in the General Conditions, shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification signed by Contractor, approved by Owner's Board of Trustees, and signed by the representative of the Owner's Board of Trustees who is authorized to sign contracts. As a material consideration for the making of the Contract, modifications to the Contract shall not be construed against the maker of said modifications. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor.

§ 1.1.2.1 To be effective, all Contract Documents requiring signatures must be signed first by the Contractor and then by the Owner's authorized representative, after approval by Owner's Board of Trustees. If an approved Contract Document requiring Contractor's signature has not been signed, then the missing signature shall be provided within a reasonable period of time. Failure of Contractor to sign an approved Contract Document after notice and a reasonable opportunity to sign shall be considered a material breach of the Contract by Contractor.

(Paragraphs deleted)

§ 1.1.3 The Work; Construction Documents

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project. The Work includes all of Contractor's responsibilities as to all labor, parts, supplies, skill, supervision, transportation services, storage requirements, and other facilities and things necessary, proper or incidental to the carrying out and completion of the terms of the Contract Documents and the Construction Documents and all other items of cost or value needed to produce, construct and fully complete the public Work identified by the Contract Documents and the Construction Documents. "Construction Documents" means: all Drawings, Specifications, geotechnical reports, Addenda, submittals, transmittals, deliverables, instructions to Contractors, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants and which set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project. The Construction Documents shall reflect all agreements between Owner and Architect concerning Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of

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equipment and facilities. Said Construction Documents shall reflect the Owner's educational program and educational specifications, the State educational adequacy standards in 19 TAC Section 61.1040 and the standards set forth in Section 3.1.4 of AIA Document B101-2017. The Architect shall provide Construction Documents which are sufficient for Owner to complete construction of the Project, are free from material defects or omissions, and which shall comply with all applicable laws, ordinances, codes, rules, and regulations, as of the date of issuance of Construction Documents.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

(Paragraphs deleted)

§ 1.1.7 Construction Documents

Construction Documents include representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

[Intentionally deleted.]

§ 1.1.9 Addenda. Addenda are written or graphic instruments issued prior to the execution of the Contract, which modify or interpret the bidding or proposal documents, including Drawings and Specifications, by additions, deletions, clarifications, or corrections. Addenda will become part of the Contract Documents and Construction Documents when the Agreement is executed. The Contractor and subcontractors shall include all addenda items on their copies of the Drawings and Specifications.

§ 1.1.10 All references to "Contractor" shall include "Construction Manager at Risk" as appropriate.

§ 1.1.11 The Owner may retain Program Manager(s) to carry out some of the functions of the administration of the Owner's construction program. The Contractor, Architect, and Program Manager (when applicable) shall cooperate with each other in the performance of their respective functions. The management and reporting systems used by the Owner and/or Program Manager, including the assignment of the Program Manager, may be changed by Owner during the Project.

§ 1.1.12 Approved, Approved Equal, Approved Equivalents, Or Equal The terms "Approved" and "Approved Equal" relate to the substitution of materials, equipment, or procedure in writing by the Architect prior to receipt of bids.

§ 1.1.13 Abbreviations

AIA:	American Institute of Architects. (All references to AIA documents refer to AIA's trademarked documents. Each reference to a specific document shall refer to the document as amended for this Project.)
AIEE:	American Institute of Electrical Engineers
ACI:	American Concrete Institute
AHERA:	Asbestos Hazardous Emergency Response Act
AISI:	American Iron and Steel Institute
AISC:	American Institute of Steel Construction
ANSI:	American National Standards Institute
ASA:	American Standards Association

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ASTM:	American Society of Testing Materials
AWSC:	American Welding Society Code
CERCLA:	Comprehensive Environmental Response, Compensation, and Liability Act
EPA:	Environmental Protection Agency
FS:	Federal Specification
NEC:	National Electrical Code
OSHA:	Occupational Safety and Health Administration
SPR:	Simplified Practice Recommendation
TAS:	Texas Accessibility Standards
UL:	Underwriters Laboratories, Inc.

§ 1.1.14 Bids or Bidding. The terms "Bids" or "Bidding" shall include any kind of competitive purchasing under Texas Government Code Chapter 2269.

§ 1.1.15 Miscellaneous Other Words

§ 1.1.15.1 Business Day. The term "business day" is a day the Owner's Administration Building is scheduled to be open for normal business purposes, unless closed by the Owner's Superintendent of Schools for inclement weather or other reason. Days on which the Administration Building is normally closed are Thanksgiving Break, Winter Break, Spring Break, and Summer Break, as well as other federal, state or local days specified in the calendar approved by the Owner's Board of Trustees on an annual basis. A business day does not include a day on which the Owner's Administration Building is open only for the purposes of conducting candidate filing, early voting, elections, or other special events.

§ 1.1.15.2 Calendar Day. A calendar day is a day on the Gregorian Calendar. The Contract Time is established in calendar days. Extensions of time granted, if any, will be converted to calendar days.

§ 1.1.15.3 Holidays. Owner-approved holidays for Contractor's Work are limited to New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

§ 1.1.15.4 Work Day. Work days are all calendar days except Holidays.

§ 1.1.15.5 Anticipated Weather Days. An allowance of regular Work Days, established as anticipated Work Days lost due to weather delays; said allowance shall be included in Contractor's proposed completion time. Only lost weather days in excess of Anticipated Weather Days shall be considered by Owner for time extensions based upon weather. Section 15.1.5.3 lists required Anticipated Weather Days.

§ 1.1.16 Contract Sum. "Contract Sum" shall have the same meaning as in Section 5.1 of the Agreement (A133-2009), for the Project when the Project is a Construction Manager at Risk Project, and the same meaning as in Article 4 of the Agreement (A101-2017) for the Project.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.1.2 During the course of the Work, should any conflict be found in or between the Contract Documents, the Contractor shall be deemed to have estimated the Work on the basis of the greater quantity or better quality, or the most stringent requirement, unless it shall have obtained an interpretation in writing from the Architect as to what shall govern before the submission of its Proposal. The Architect, in case of such conflict, may interpret or construe the

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documents so as to obtain the most substantial and complete performance of the Work consistent with the Contract Documents and reasonably inferable therefrom, in the best interest of Owner, and the Architect's interpretation shall be final. The terms and conditions of this clause shall not relieve any party of any other obligation under the Contract Documents.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.4 Relation Of Specifications And Drawings. General Requirements in the Specifications govern the execution of all Specifications. Summary paragraphs present a brief indication of the Work, but do not limit the Work as later detailed. The Drawings and Specifications are correlative and have equal authority and priority. Should the Drawings and Specifications have internal inconsistencies, then the Contractor shall base the bids and construction on the more expensive combination of quality and quantity of work indicated. For purposes of construction, the Architect shall determine the appropriate Work, after the Contractor brings the inconsistency to the Architect's attention. Failure to report an inconsistency shall be evidence that Contractor has elected to proceed in the more expensive manner.

§ 1.2.5 Materials, Equipment And Processes. Exact location and arrangement of the various pieces of equipment specified shall be determined with the approval of the Architect after equipment has been selected and/or as the Work progresses. All equipment shall, insofar as possible, be installed in such a manner as will not interfere with architectural or structural portions of the building. Should changes become necessary because of a failure of the Contractor to comply with the Contract Documents which results in equipment requiring more area than shown on the Contract Documents, the Contractor shall be fully responsible for completing any required modifications or eliminating any interferences. Where in the Drawings and Specifications, certain products, manufacturer's trade names, or catalog numbers are specified, it is done for the express purpose of establishing a standard of function, dimension, appearance, and quality of design in harmony with the Work, and is not intended for the purpose of limiting competition. Materials or equipment shall not be substituted unless the Architect has specifically accepted such substitution for use on this Project. When more than one material, process, or brand is specified for a particular item of Work, the choice shall be the Contractor's. The final selection of color and pattern will be made by the Owner from the range available within the option selected by the Contractor, unless the item is specified to match a specific color or sample furnished. Where particular items are specified, products of those named manufacturers are required unless Contractor submits for consideration proposed substitutions of materials, equipment or processes from those set out in the Contract Documents. Submittals of proposed substitutions should contain sufficient information to allow the Architect and Owner to determine if the proposed substitution is in fact equal to or better than the requirements in the Contract Documents. The Architect shall review and respond to proposed substitutions within fifteen (15) days of receipt. Contractor shall bear all risk caused by submitting substitutions, including all costs. The Owner may approve substitutions only when the substitution is clearly provided by the Contract to be equal in performance characteristics to the requirements of the Contract Documents, equally compatible with the existing installations and complementary to the architectural design for the Work. Certain specified construction and equipment details may not be regularly included as part of the named manufacturer's standard catalog equipment, but shall be obtained by the Contractor from the manufacturer as required for the proper evaluation and/or functioning of the equipment. Reasonable minor variations in equipment are expected and will be acceptable, if approved by the Architect and Owner, however, indicated and specified performance and material requirements are the minimum. The Owner and the Architect reserve the right to determine the equality of equipment and materials that deviate from any of the indicated and specified requirements.

§ 1.2.6 Standards And Requirements. When the Contract Documents refer to standards, building codes, manufacturers' instructions, or other documents, unless otherwise specified, then the current edition as of the date of execution of the Agreement by the last party to execute said Agreement shall apply. It shall be the responsibility of the Architect to address revisions or amendments to applicable codes or standards which arise after the date of execution of the Agreement and until Final Completion, pursuant to the terms of the Agreement between Owner and Architect. Requirements of public authorities apply as minimum requirements only and do not supersede more stringent specified requirements.

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§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity, the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Construction Documents

§ 1.5.1 All ownership rights, whether common law, statutory, or other reserved rights, including copyright ownership of the Construction Documents, are controlled by the Agreement between the Owner and the Architect. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Construction Documents. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of any reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are granted a limited license to use and reproduce the Construction Documents provided to them, subject to any protocols established pursuant to Section 1.7, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Construction Documents. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect’s consultants. All copies of the Construction Documents, except the Contractor’s record set, shall be returned or suitably accounted for to the copyright holder upon completion of the Work.

§ 1.6 Notice

§ 1.6.1 Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice, or if sent by electronic facsimile transmission, to the last business number known to the party giving notice, with electronic confirmation of receipt; or, if sent by electronic mail, to the email address of the Owner’s or Contractor’s designated representative, with electronic confirmation of receipt.

[Intentionally deleted.]

(Paragraph deleted)

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

[Intentionally deleted.]

(Paragraphs deleted)

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the independent school district identified in the Contract Documents. The Board of Trustees, by majority vote, is the only representative of the Owner, an independent school district, having the power to: enter into a contract; amend a contract, including but not limited to AIA Document A-133 Exhibit A; approve changes in the scope of Work; approve and execute a Change Order or Construction Change Directive modifying the Contract Sum or Guaranteed Maximum Price; agree to an extension to the date of Substantial or Final Completion; or terminate a contract. The Board will act as soon as reasonably possible to avoid undue delays. The Board designates authorized representatives to act on its behalf for day-to-day operations under the Contract. Unless otherwise designated in the Contract Documents, Owner’s authorized representative shall be the Superintendent of Schools, who may delegate responsibilities as appropriate. Owner’s Board of Trustees hereby delegates to the Superintendent of Schools or designee the authority to approve changes to the Work where such changes are within the Owner’s contingency or the

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Contractor's contingency. Any such change shall be confirmed in writing between the Contractor and Owner's Superintendent or designee, and notice of such approved changes shall be given to the Board at its next regular meeting. Except as otherwise provided in the Contract Documents, the Architect does not have such authority. Neither Architect nor Contractor may rely upon the direction of any employee of Owner who has not been designated in writing by the Superintendent or Board of Trustees; Owner shall not be financially responsible for actions taken by the Architect or Contractor in reliance upon direction from unauthorized persons.

§ 2.1.2 It shall be distinctly understood that by virtue of this Contract, no mechanic, contractor, material person, artisan, or laborer, skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the buildings or any of the improvements of whatsoever nature or kind so erected or to be erected by virtue of this Contract or upon any of the land on which said buildings or any of the improvements are so erected, built, or situated, such property belonging to a political subdivision of the State of Texas. It shall be further understood that this Contract is not written for the benefit of third parties.

§ 2.1.3 The Owner shall require the Contractor and the Architect to meet periodically at mutually-agreed-upon intervals, for the purpose of establishing procedures to facilitate cooperation, communication, and timely responses among the participants. By participating in this arrangement, the parties do not intend to create additional contractual obligations or modify the legal relationships which may otherwise exist.

§ 2.1.4 The Owner may require that the Contractor use and/or respond to certain Owner-furnished forms or inquiries during the course of the Project. From time to time, there may be future revisions, changes, additions or deletions to these forms. The fact that the Owner modifies and increases reasonable reporting requirements shall not serve as the basis for a claim for additional time or compensation by the Contractor.

§ 2.1.5 The Contractor stipulates and agrees that the Owner has no duty to discover any design errors or omissions in the Drawings, Plans, Specifications and other Construction Documents, and has no duty to notify Contractor of same. By entering into the Contract Documents or any Agreement with any Architect, Owner does not warrant the adequacy and accuracy of any Drawings, Plans, Specifications or other Construction Documents.

§ 2.2 Owner's Financial Arrangements

§ 2.2.1 The Owner, being a public body under the laws of the State of Texas, must have adequate funds and/or financing as provided by law prior to award and execution of the Contract Documents.

§ 2.2.2 *[Intentionally deleted.]*

§ 2.2.3 *[Intentionally deleted.]*

§ 2.2.4 *[Intentionally deleted.]*

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor whose status under the Contract Documents shall be that of the Architect. Owner shall notify Contractor if a successor architect has been employed by Owner.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. Other than the metes and bounds noted in the survey, if any, Owner does not guarantee or warrant the accuracy of surveys provided, including the locations of utility lines, cables, pipes or pipelines, or the presence or absence of easements.

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§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness after receiving the Contractor's written request for such information or services. Absent such timely notification, any Claim based upon lack of such information or services shall be waived.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor at least one copy of the Construction Documents, as provided for in the Project Manual, for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct defective Work, fails to correct Work that is not in accordance with the requirements of the Contract Documents or the Construction Documents as required by Section 12.2, or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3. The authorized Owner's representative having the legal right to stop the Work shall be limited to the Owner's Superintendent of Schools.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. The Architect shall, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's and other consultants' additional services, if any, made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, then the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, then the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative, and includes the Construction Manager at Risk, if applicable.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, activities of the Owner (or Owner's Program Manager, if applicable), or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.1.4 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

- .1 that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;
- .2 that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

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- 3 that it is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental, public, and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and
- 4 that the execution of the Contract and its performance thereof are within its duly-authorized powers.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents. The Contractor represents and warrants by submission of a Proposal that it has carefully examined the Contract Documents, any soil test reports, drainage studies, geotechnical or other reports, and the site of the Work, and that, from its own investigations, it has satisfied itself as to the nature and location of the Work, the character, quality and quantity of surface and subsurface materials likely to be encountered, the character of equipment and other facilities needed for the performance of the Work, the general and local conditions and all other materials which may in any way affect the Work or its performance. Should the Contractor find discrepancies, omissions or conflicts within the Contract Documents, or be in doubt as to their meaning, the Contractor shall at once notify in writing the Architect and Owner, and Architect will issue a written addendum to all parties that is consistent with the Owner's Scope of the Work. The Contractor shall not be entitled to any additional time or compensation for Contractor's failure to visit the site, or for any additional Work caused by the Contractor's fault, by improper construction, or by Contractor's failure to visit the site or to carefully study and compare the Contract Documents prior to execution of the Work.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. Contractor shall not perform any Work involving an error, inconsistency, or omission without further instructions to Contractor or revised Construction Documents from the Architect.

§ 3.2.3 Neither the Owner nor the Contractor is required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor has knowledge that any of the products or systems specified will perform in a manner that will limit the Contractor's ability to satisfactorily perform the Work or to honor its warranty, or will result in a limitation of or interference with the Owner's intended use, then the Contractor shall promptly notify the Architect and Owner in writing, providing substantiation for its position. Any necessary changes, including substitution of materials, shall be accomplished by appropriate Modification. If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. Contractor shall take field measurements, verify field conditions, and shall carefully compare them to the Construction Documents. The Contractor shall be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities when the Contractor recognized or should have recognized such error, inconsistency, omission or difference and failed to report it to the Architect. Contractor shall not be entitled to additional compensation for additional Work caused by Contractor's failure to carefully study and compare the Construction Documents prior to the execution of the Work.

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§ 3.2.5 Prior to performing any Work, and only if applicable, Contractor shall locate all utility lines as shown and located on the plans and specifications, including telephone company lines and cables, sewer lines, water pipes, gas lines, electrical lines, including, but not limited to, all buried pipelines and buried telephone cables, and shall perform any Work in such a manner so as to avoid damaging any such lines, cables, pipes, and pipelines. In addition, Contractor shall independently determine the location of same. Contractor shall be responsible for any damage done to such utility lines, cables, pipes and pipelines during its Work, and shall be responsible for any loss, damage, or extra expense resulting from such damage. Repairs shall be made immediately to restore all service. Any delay for such break shall be attributable to Contractor. In addition, and only if applicable, Contractor shall review the appropriate AHERA and hazardous materials surveys for the particular campuses involved in the Project, and shall notify all Subcontractors and Sub-subcontractors of the necessity to review said surveys. Contractor shall perform any Work in such a manner as to avoid damaging, exposing, or dislodging any asbestos-containing materials that are clearly identified and located in AHERA and other hazardous material surveys. Before performing any portion of the Work, the Contractor shall fully investigate all physical aspects of the Project Site and verify all dimensions, measurements, property lines, grades and elevations, existing improvements, and general suitability of existing conditions at the Project site. If applicable, Contractor shall comply with U.S. Environmental Protection Agency rules concerning renovating, repairing, or painting work in schools built prior to 1978 involving lead-based paint.

§ 3.2.6 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for information, where such information was available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation. If, in the reasonable opinion of the Architect, the Contractor does not make reasonable effort to comply with any of the above requirements of the Contract Documents and this causes the Architect or its Consultants to expend an unreasonable amount of time in the discharge of the duties imposed by the Contract Documents, then the Contractor shall bear the cost of compensation for the Architect's additional services made necessary by such failure.

§ 3.2.7 The Contractor shall arrange meetings prior to commencement of the Work of all major Subcontractors to allow the Subcontractors to demonstrate an understanding of the Construction and Contract Documents to the Architect and to allow the Subcontractors to ask for interpretations, when necessary. The Contractor and each Subcontractor shall evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed, including:

- .1 The location, condition, layout, drainage and nature of the Project site and surrounding areas;
- .2 Generally prevailing climatic conditions;
- .3 Anticipated labor supply and costs;
- .4 Availability and cost of materials, tools and equipment; and
- .5 Other similar issues.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects in writing to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or

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on behalf of, the Contractor or any of its Subcontractors. As part of that responsibility, Contractor shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Contractor's employees, subcontractors, and all other persons carrying out the Contract. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, while on Owner's property, to refrain from committing any criminal conduct, using tobacco products, possessing or drinking alcoholic beverages, possessing or using illegal drugs or any controlled substance, carrying or possessing weapons, speaking profane and/or offensive language, or engaging in any inappropriate interactions of any nature whatsoever with students and employees, including talking, touching, staring or otherwise contributing to a hostile or offensive environment for Owner's students and employees. All areas of campus, other than the defined construction area, shall be off limits to Contractor's forces, unless their work assignment specifies otherwise. Contractor shall also require adequate and appropriate dress and identification of Contractor's employees, subcontractors, and all other persons carrying out the Work. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to wear identification tags on the front of their persons during all times that they are on Owner's property. Such identification tags shall contain a current photograph and the worker's full name in a typeface large enough to be seen from a reasonable distance. The Contractor shall further ensure that no on-site fraternization shall occur between personnel under the Contractor's and Subcontractor's direct or indirect supervision and Owner's students or employees and the general public. Failure of an individual to adhere to these standards of conduct shall result in the immediate removal of the offending employee from all construction on any of Owner's property. Repeated removal of Contractor's or Contractor's subcontractor's forces, or one serious infraction, shall constitute a substantial breach of the Agreement justifying the immediate termination by Owner pursuant to Article 14. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to park their personal motor vehicles on Owner's property only in the parking places designated by the Owner's campus principal. Any vehicles not parked in the appropriate locations shall be towed at the vehicle owner's sole expense. Contractor shall follow, and shall require all employees, agents or subcontractors to follow, the tree ordinance of the municipality in which the Project is located. In addition, if not covered by the municipal tree ordinance, Contractor shall barricade and protect all trees on the Project, which shall be included in the Cost of the Work. Contractor shall institute a theft deterrence program designed to restrict construction worker access to properties of Owner that are currently in use, to maintain supervision of Contractor's and Contractor's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from Contractor's forces or Contractor's subcontractor's forces' actions, omissions, or failure to secure the Work or connecting or adjacent property of Owner.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall properly and efficiently coordinate the timing, scheduling and routing of all Work performed by all sub-contractors and sub-sub-contractors.

§ 3.3.5 To the extent that any portion of the Work requires a trench excavation exceeding five (5) feet in depth, in accordance with Texas Health and Safety Code Section 756.023(a), Contractor shall fully comply, and shall require any applicable subcontractor to comply, with:

- .1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work;
- .2 The special shoring requirements, if any, of the Owner; and
- .3 Any geotechnical information obtained by Owner for use by the Contractor in the design of the trench safety system.
- .4 Trench excavation safety protection shall be a separate pay item, and shall be based on linear feet of trench excavated. Special shoring requirements shall also be a separate pay item, and shall be based on the square feet of shoring used.

§ 3.3.6 The Contractor shall review Subcontractor safety programs, procedures, and precautions in connection with performance of the Work. However, the Contractor's duties shall not relieve any Subcontractor(s) or any other person or entity (e.g., a supplier), including any person or entity with whom the Contractor does not have a contractual

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relationship, of their responsibility or liability relative to compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances which shall include the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. The foregoing notwithstanding, the requirements of this Paragraph are not intended to impose upon the Contractor any additional obligations that the Contractor would not have under any applicable state or federal laws, including, but not limited to, any rules, regulations, or statutes pertaining to the Occupational Safety and Health Administration.

§ 3.3.7 It is understood and agreed that the relationship of Contractor to Owner shall be that of an independent contractor. Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Contractor the agent, servant or employee of the Owner; or 2) create any partnership, joint venture, or other association between Owner and Contractor. Any direction or instruction by Owner or any of its authorized representatives in respect of the Work shall relate to the results the Owner desires to obtain from the Work, and shall in no way affect Contractor's independent contractor status.

§ 3.3.8 Pursuant to Texas Labor Code Sec. 214.008, the Contractor and any subcontractor on the Project shall properly classify, as an employee or an independent contractor, in accordance with Texas Labor Code Chapter 201, any individual the Contractor or subcontractor directly retains and compensates for services performed in connection with this Agreement. Any Contractor or subcontractor who fails to properly classify such an individual may be subject to the penalties of Texas Labor Code Sec. 214.008(c).

§ 3.4 Labor and Materials

§ 3.4.1 These Contract Documents shall not be construed to deny or diminish the right of any person to work because of the person's membership or other relationship status with respect to any organization. Texas Government Code § 2269.054. Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for qualified, careful, and efficient workers and labor, eligible to work in accordance with state and federal law. Contractor shall appropriately classify all workers in accordance with the Fair Labor Standards Act, its implementing regulations, and Texas Labor Code Section 214.008. In addition, unless otherwise provided in the Contract documents, the Contractor shall provide and pay for materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Before ordering any material or doing any Work, Contractor shall verify all dimensions and check all conditions in order to assure Contractor that they are the same as those in the Drawings, Specifications, and other Construction Documents. Any inconsistency shall be brought to the attention of the Architect. In the event that discrepancies occur between ordered material and actual conditions and Architect was not notified beforehand, then costs to correct such discrepancies shall be borne by Contractor.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the prior written consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.2.1 After evaluation by the Architect, substitutions and alternates may be rejected by the Architect without explanation and will be considered only under one or more of the following conditions: (i) the proposal is required for compliance with interpretation of code requirements or insurance regulations then existing; (ii) specified products are unavailable through no fault of the Contractor; (iii) and when, in the judgment of the Architect, a substitution would be substantially in the Owner's best interests, in terms of cost, time, or other considerations.

§ 3.4.2.2 The Contractor must submit to the Architect: (i) a full explanation of the proposed substitution and submittals of all supporting data, including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation for the substitution; (ii) a written explanation of the reasons the substitution should be considered, including the benefits to the Owner and the Work in the event the substitution is acceptable; (iii) the adjustment, if any, in the Contract Sum; (iv) the adjustment, if any, in the time of completion of the Contract and the construction schedule; and (v) an affidavit stating (a) the proposed substitution conforms to and meets all requirements of the pertinent Specifications and the requirements shown on the Drawings, and (b) the Contractor accepts the warranty and will coordinate the Work to be complete in all respects, as if originally specified by the Architect. Proposals for substitutions shall be submitted in writing to the Architect in

sufficient time to allow the Architect no less than fifteen (15) working days for review. No substitutions will be considered or allowed without the Contractor's submittals of complete substantiating data and information.

§ 3.4.2.3 Whether or not the Architect accepts any proposed substitution, the Contractor shall reimburse the Owner for any fees charged by the Architect or other consultants for evaluating each proposed substitution.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. THE CONTRACTOR RELEASES, INDEMNIFIES AND HOLDS HARMLESS THE OWNER FOR CONTRACTOR'S FORCES' NON-COMPLIANCE WITH OWNER'S DRUG-FREE, ALCOHOL-FREE, WEAPON-FREE, HARASSMENT-FREE, AND TOBACCO-FREE ZONES, CONTRACTOR'S FORCES' NON-COMPLIANCE WITH CRIMINAL LAW, OR CONTRACTOR'S OR CONTRACTOR'S FORCES' NON-COMPLIANCE WITH IMMIGRATION LAW OR REGULATIONS. Any individual found by Owner to have violated these restrictions is subject to permanent removal from the Project, at Owner's request. Contractor shall place similar language in its subcontract agreements, requiring its Subcontractors and Sub-subcontractors to be responsible for their own forces and Contractor shall cooperate with the Owner to ensure Subcontractor and Sub-subcontractor compliance.

§ 3.4.4. Including, but not limited to, the specific requirements of Article 10, Contractor, its subcontractors and vendors shall bear responsibility for compliance with all federal, state and local laws, regulations, guidelines, and ordinances pertaining to worker safety and applicable to the Work. Contractor further recognizes that the Owner and Architect do not owe the Contractor any duty to supervise or direct its work so as to protect the Contractor from the consequences of its own conduct.

§ 3.4.5 Pursuant to Texas Education Code Section 44.034, Contractor must give advance written notice to the Owner if the Contractor or an owner or operator of the Contractor has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Contractor failed to give such notice or misrepresented the conduct resulting in the conviction. This paragraph requiring advance notice does not apply to a publicly-held corporation.

§ 3.4.6 CRIMINAL HISTORY CHECKS

§ 3.4.6.1 So that Owner can obtain the national criminal history record information required by Texas Education Code Section 22.08341 on all "covered employees" (as defined in Section 3.4.6.3) of Contractor, its subcontractors, or any subcontracting entities who will perform the Work, Contractor shall submit to Owner the name and all necessary identifying information necessary to enable Owner to obtain the national criminal history information on those covered employees before they begin the Work. Contractor's submission will include the employee's written authorization for Owner to obtain such criminal history information. Owner may, in its sole discretion, prohibit the use of any employee to perform the Work after its review of the criminal history information, but cannot disclose the criminal history information to Contractor. Contractor shall reimburse Owner for Owner's costs incurred in obtaining the criminal history information.

§ 3.4.6.2 Contractor will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to work on the Project. If Contractor receives information that a covered employee has a reported disqualifying criminal history, then Contractor will immediately remove the covered employee from the Project and notify the Owner in writing within three business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Contractor agrees to discontinue using that covered employee to provide services on Owner's Project. If Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees, Contractor will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 3.4.6.3 For the purposes of this Section, "covered employees" means employees, agents or applicants of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. The definition of "covered employees" does not include individuals working on the Work if the Work: (1.) does not involve the construction, alteration, or repair of an instructional facility as defined herein; (2.) involves construction of a new instructional facility and the person's duties related to other contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or (3.) involves an existing

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instructional facility and: (a.) the work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and (b.) the contracting entity adopts a policy prohibiting employees, contractors, and subcontractors from interacting with students or entering areas used by students, informs employees, contractors, and subcontractors of the policy, and enforces the policy at the work area. "Disqualifying criminal history" means: any conviction or other criminal history information designated by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification under Texas Education Code Section 21.060 and 19 Texas Administrative Code § 249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school; a felony offense under Texas Penal Code Title 5 Offenses Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure chapter 62; or an equivalent offense under federal law or the laws of another state; or a felony violation of Texas Penal Code Section 43.24 related to the sale, distribution or display of harmful materials to a minor. The term "instructional facility" means real property, and improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under the state curriculum for kindergarten through grade 12.

§ 3.4.6.4 Contractor's violation of this section shall constitute a substantial failure under Article 14.

§ 3.4.7 PREVAILING WAGE RATES

§ 3.4.7.1 Contractor, Contractor's Subcontractors and Sub-subcontractors shall pay all workers not less than the general prevailing rate of per diem wages for work of a similar character where the Project is located, as detailed in the "Minimum Wage Schedule" attached to this Agreement. Wages listed are minimum rates only. However, no claims for additional compensation above the Contract Sum shall be considered by the Owner because of payments of wage rates in excess of the applicable rate provided herein. Texas Government Code Section 2258.001 *et seq.*

§ 3.4.7.2 Contractor shall forfeit, as a penalty to the Owner, \$60 for each laborer, worker or mechanic employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the Contract Documents.

§ 3.4.7.3 Owner reserves the right to receive and review payroll records, payment records, and earning statements of employees of Contractor, and of Contractor's Subcontractors and Sub-subcontractors."

"§ 3.4.7.4 In executing the Work under the Contract Documents, Contractor shall comply with all applicable state and federal laws, including but not limited to, laws concerned with labor, equal employment opportunity, safety and minimum wages."

"§ 3.4.7.5 If no schedule is attached, then the parties shall use the wage rate determined by the US Department of Labor in accordance with the Davis-Bacon Act, 40 U.S.C. Section 276a, (which can be accessed on the internet at <https://www.wdol.gov/> or <https://beta.sam.gov/>) effective as of the date of this Agreement.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. The Contractor further warrants that Contractor shall perform the Work in a good and workmanlike manner, continuously and diligently in accordance with generally accepted standards of construction practice for construction of projects similar to the Project, except to the extent the Contract Documents expressly specify a higher degree of finish or workmanship, in which case the standard shall be the higher standard. All material shall be installed in a true and straight alignment, level and plumb; patterns shall be uniform; and jointing of materials shall be flush and level, unless otherwise directed in writing by the Architect. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance (unless such maintenance is Contractor's responsibility), improper operation, or normal wear and tear and normal usage, but such exclusions shall only apply after Owner has taken occupancy of the damaged or defective point of the Project. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. Notwithstanding anything in the Contract Documents to the contrary, Owner and Contractor expressly agree that the warranties stated

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herein shall mean the individual warranties associated with each particular Work within the Project, and each such individual warranty shall run from the applicable Work's Final Completion date (unless otherwise expressly provided in the applicable Contract Documents for that particular Work). Contractor's express warranty is in addition to, and not in lieu of, Owner's other available remedies. All required warranties on equipment, machinery, materials, or components shall be submitted to the Architect on the manufacturer's or supplier's approved forms for delivery to the Owner. The warranties set out in this Subparagraph are not exclusive of any other warranties or guarantees set out in other places in the Contract Documents or expressed or implied under applicable law.

§ 3.5.2 Contractor shall certify that the Project has been constructed in general conformance with the Architect's or Engineer's plans, specifications, and Construction Documents, as modified from time to time pursuant to the terms of the Contract Documents. Contractor shall fully complete a "Certification of Project Completion" as required by 19 Texas Administrative Code Section 61.1040.

§ 3.5.3 In the event of failure of materials, products, or workmanship, either during construction or the warranty period, the Contractor shall take appropriate measures to ensure correction of defective Work or replacement of the defective items, without cost to the Owner. Such warranty shall be maintained notwithstanding that certain systems may be activated prior to Substantial Completion as required for the satisfactory completion of the Project. Upon written notice from the Owner or Architect, the Contractor shall promptly remedy defects as covered by Contractor's warranty. If Contractor does not respond to the written notice, either by beginning corrective work or notifying Owner in writing regarding when corrective work will begin, within ten days of Contractor's receipt of the written notice, then the Owner may take measures to correct the Work and Contractor will be obligated to reimburse Owner's costs. The provisions of this subparagraph shall be in addition to, and not in lieu of, any other rights and remedies available to the Owner.

§ 3.5.4 When deemed necessary by the Owner and prior to installation of any item specifically made subject to a performance standard or regulatory agency standard under any provision of the Contract Documents, Contractor shall furnish proof of conformance to the Architect. Proof of conformance shall be in the form of:

- .1 an affidavit from the manufacturer certifying that the item is in conformance with the applicable standards; or
- .2 an affidavit from a testing laboratory certifying that the product has been tested within the past year and is in conformance with the applicable standards; or
- .3 such further reasonable proof as is required by the Architect.

§ 3.5.5 The Contractor agrees to issue in the name of the owner, or assign to the Owner at Final Completion of the Work, such assignment to be effective no later than Final Completion, for any and all material, equipment, fixtures and furniture (if supplied or installed by Contractor or its subcontractors), other special warranties, and manufacturers' warranties relating to materials and labor used in the Work. Contractor further agrees to perform the Work in such manner so as to preserve any and all manufacturers' warranties. All forms will be required to be submitted prior to Final Payment.

§ 3.5.6 The warranties of Contractor provided in Section 3.5 shall in no way limit or abridge the warranties of the suppliers of equipment and systems which are to comprise a portion of the Work and all such warranties shall be in form and substance as required by the Contract Documents. Contractor shall take no action or fail to act in any way which results in the termination or expiration of such third party warranties or which otherwise results in prejudice to the rights of Owner under such warranties. Contractor agrees to provide all notices required for the effectiveness of such warranties and shall include provisions in the contracts with the providers and manufacturers of such systems and equipment whereby Owner shall have a direct right, but not a duty, of enforcement of such warranty obligations.

§ 3.5.7 Contractor shall maintain a complete and accurate schedule of the date(s) of Substantial Completion, the date(s) of Final Completion, and the dates upon which the warranty under Section 12.2 herein on each phase or building will expire. Contractor shall provide a copy of such schedules to Owner and Architect. Prior to termination of the warranty period under Section 12.2 herein, Contractor shall accompany Owner and Architect on re-inspection of each Work in the Project and Contractor shall be responsible for correcting any warranty items which are observed or reported during the warranty period under Section 12.2 herein. Contractor shall prosecute such warranty work under

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Section 12.2 herein without interruption until accepted by Owner and Architect, even though such work should extend beyond the warranty period under Section 12.2 herein. If Contractor fails to provide the schedules to Owner and Architect, Contractor's warranty obligation described herein shall continue until such inspection is conducted and deficiencies are corrected.

§ 3.5.8 Prior to receipt of Final Payment, Contractor shall:

- .1 Obtain duplicate original warranties, executed by all subcontractors, making the dates of beginning of the warranties the Date of Final Completion; and the warranties of suppliers and manufacturers, making the dates of beginning of the warranties no later than the Date of Final Completion;
- .2 Verify that the documents are in proper form and contain full information;
- .3 Co-sign warranties when required;
- .4 Bind all warranties in commercial quality 8-1/2 X 11 inch three-ring binder, with hardback, cleanable, plastic covers;
- .5 Label the cover of each binder with a typed or printed title labeled "WARRANTIES", along with the title of the Project; name, address and telephone number of Contractor; and name of its responsible principal;
- .6 Include a Table of Contents, with each item identified by the number and title of the specification section under which the product is specified;
- .7 Separate each warranty with index tab sheets keyed to the Table of Contents listing; and
- .8 Deliver warranties and bonds in the form described above, to the Architect who will review same prior to submission to the Owner.

§ 3.6 Taxes

Owner is an exempt entity under the tax laws of the State of Texas. Texas Tax Code § 151.309; 34 TAC § 3.322. The Owner represents that this Project is eligible for exemption from the State Sales Tax on tangible personal property and material incorporated in the Project, provided that the Contractor fulfills the requirements of the Texas Tax Code § 151.309, § 151.310, § 151.311 and 34 TAC § 3.291; 3.287. For the purpose of establishing exemption, it is understood and agreed that the Contractor may be required to segregate materials and labor costs at the time a Contract is awarded. Contractor will accept a Certificate of Exemption from the Owner, pursuant to Texas Tax Code § 151.054(e); § 151.155; and 34 TAC § 3.287. Contractor shall obtain Certificates of Resale from Contractor's suppliers. Texas Tax Code § 151.154, 34 TAC § 3.285. Failure of Contractor or any Sub-Contractor to obtain Certificates of Resale from their suppliers shall make the Contractor or Sub-Contractor responsible for absorbing the tax, without compensation from Owner. Contractor shall pay all necessary local, county and state taxes, income tax, compensation tax, social security and withholding payments as required by law. CONTRACTOR HEREBY RELEASES, INDEMNIFIES, AND HOLDS HARMLESS OWNER FROM ANY AND ALL CLAIMS AND DEMANDS MADE AS A RESULT OF THE FAILURE OF CONTRACTOR OR ANY SUBCONTRACTOR TO COMPLY WITH THE PROVISIONS OF ANY OR ALL SUCH LAWS AND REGULATIONS.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 After Architect has filed the plans and specifications with the Texas Department of Licensing and Regulation, Architect shall notify Contractor that Contractor may make and submit the applications for the building permit. The Owner shall pay the municipality directly for the building permit and all other development "impact" fees, if any. The Contractor shall continue to be responsible for payment of other permits, governmental fees, licenses, and inspections necessary for proper execution of the Contract and which are legally required when bids or proposals are received. Such fees and expenses shall only be reimbursable to Contractor if expressly agreed to herein.

§ 3.7.1.1 The Owner shall pay directly to the governing authority the cost of all permanent property utility assessments and similar connection charges.

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§ 3.7.1.2 The Contractor shall pay directly all temporary utility charges, tap charges, and water meter charges, without reimbursement from Owner. After consultation with the Owner, the Contractor shall also obtain all permits and approvals, and pay all fees and expenses, if any, associated with National Pollutant Discharge Elimination System (NPDES) regulations administered by the Environmental Protection Agency (EPA) and local authorities, if applicable, that require completion of documentation and/or acquisition of a "Land Disturbing Activities Permit" for the Project. Also after consultation with the Owner, the Contractor shall obtain all permits and approvals, and pay all fees and expenses, if any, associated with Storm Water Pollution Prevention and Pollution Control Plan (SWPPP) regulations administered by the Texas Commission on Environmental Quality (TCEQ) and local authorities. Contractor's obligations under this Section may or may not require it to obtain or perform engineering services during the pre-construction phase to prepare proper drainage for the construction sites. Any drainage alterations made by Contractor during the construction process, which require the issuance of a permit, shall be at Contractor's sole cost. Reimbursable expenses shall not include any fines or penalties assessed against the Contractor, Contractor's subcontractors, the Project, or the Owner.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. In addition, Contractor shall authorize posting of any notices required of Owner pursuant to Texas Business and Commerce Code, Section 16.0001, or any notices concerning the Workers Compensation insurance carried by other parties involved in the Project, including without limitation, Architect, at the same location where Contractor posts notices regarding Workers Compensation. If applicable, the Contractor shall procure and obtain all bonds required of the Owner or the Contractor by the municipality in which the Project is located or by any other public or private body with jurisdiction over the Project. In connection with such bonds, the Contractor shall prepare all applications, supply all necessary back-up material and furnish the surety with any required personal undertakings. The Contractor shall also obtain and pay all charges for all approvals for street closings, traffic control, parking meter removal and other similar matters as may be necessary or appropriate from time to time for the performance of the Work."

§ 3.7.3 If the Contractor performs Work when Contractor knows or reasonably should have known it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, the Contract Documents, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than three (3) business days after first observance of the conditions. Contractor agrees that this is a reasonable notice requirement. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially, report findings and a recommended resolution in writing to Owner and Contractor. If Owner's Board of Trustees or Board's designee and Contractor cannot agree on an equitable adjustment to the Contract Sum or Contract time, then either party may pursue alternative dispute resolution as provided for in Article 15 within ninety (90) days of the Architect's recommendation. If such conditions will cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, the Architect will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect in writing. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.7.6 The Contractor shall be responsible for timely notification to and coordination with all utility companies regarding the provision of services to the Project. The Contractor shall inform the Architect at once when the Owner's

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participation is required, and the Architect shall immediately notify the Owner. Connections for temporary and permanent utilities and payment for temporary utilities services required for the Work, whether the Work is new construction or renovation of an existing facility, are the responsibility of the Contractor unless otherwise agreed. If the Work is new construction, then payment for temporary and/or permanent utility services shall be the responsibility of the Contractor until Substantial Completion.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection, unless required to do so by the terms of the Construction Documents.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum, unless required to do so by the terms of the Construction Documents, shall be adjusted accordingly. The amount of the adjustment shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.8.4 When performing Work under allowances, Contractor shall solicit and receive not less than three written proposals and shall provide the Work as directed by the Architect, upon Owner's written approval, on the basis of the best value to the District.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. In addition, the Contractor may employ a project manager and necessary assistants who may supervise several Project sites. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be similarly confirmed in writing. Other communications shall be similarly confirmed on written request in each case. Questions about plan interpretation or directions shall be submitted to the Architect in the form of a written request for information and the Architect shall respond to such request for information in a reasonable and timely fashion. Contractor's selection of project manager or superintendent(s) shall be approved by Owner, and Contractor shall not replace the project manager or superintendent(s) without Owner's consent or until a replacement project manager or superintendent(s) has been selected in accordance with this Section. The Owner may reject or require removal of any job superintendent, project manager or employee of the Contractor, Subcontractor or Sub-Subcontractor involved in the Project. Contractor shall provide an adequate staff for the proper coordination and expedition of the Work. Owner reserves the right to require Contractor to dismiss from the Work any employee or employees that Owner may deem incompetent, careless, insubordinate, or in violation of any provision in these Contract Documents. This provision is applicable to Subcontractors, Sub-Subcontractors and their employees.

§ 3.9.2 [*Intentionally deleted.*]

§ 3.9.3 Contractor's superintendent shall be present full-time on the site as soon as possible after commencement of the Work, and shall remain assigned to this Work, and present on the site during performance of the Work, throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion pursuant to Section 9.8, have been completed or corrected. From Substantial Completion until Final Completion, the superintendent shall be on the site as necessary to ensure that Final Completion occurs within 30 days of Substantial Completion.

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§ 3.9.4 Owner shall be notified not less than 24 hours before any time that superintendent will not be present at the site for any reason except periodic illness. If the reason is due to illness, then Owner shall be notified at the beginning of that day. Owner shall be notified of the identity of the acting superintendent. In the event the superintendent is absent from the site and notice has not been provided nor has an acting superintendent been assigned to the Work, then an amount equal to the superintendent's daily rate shall be deducted from the amount owed to the Contractor under general conditions for such day.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The schedule shall not interfere with the operation of Owner's existing facilities and operations without Owner's prior written approval.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall prepare and submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.10.4 The Contractor shall hold weekly progress meetings at the Project Site, or at such other time and frequency as are acceptable to the Owner. Progress of the work shall be reported at said meetings with reference to Contractor's construction schedule. The Contractor shall submit to the Architect with each monthly application for payment a copy of the progress schedule showing all modifications required, and shall take whatever corrective action is necessary to assure that the project completion schedule is met at no additional cost to Owner, except as allowed herein. In the event that Contractor shall fall behind schedule at any time, Contractor shall develop and deliver a recovery plan to the Owner with a recovery schedule and a program describing the additional manpower, overtime, material expediting, resequencing of the Work and other steps Contractor shall take to meet the requirements of the Contract. Contractor shall not be entitled to compensation from the Owner or any increase in the Contract Sum for the schedule recovery efforts. No approval or consent by the Owner of any plan for resequencing or acceleration of the Work submitted by Contractor shall constitute a waiver by Owner of any damages or losses which Owner may suffer by reason of such resequencing or the failure of Contractor to meet the Substantial Completion Date or the Final Completion Date.

§ 3.11 Documents and Samples at the Site

The Contractor shall maintain and make available at all times, at the Project site, the Construction Documents, including Change Orders, Construction Change Directives, field test records (including environmental inspection and test records), inspection certificates or records, manufacturers' certificates, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner at all times, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.11.1 In addition to any other requirement in the Contract Documents and prior to installation, Contractor shall furnish or cause a subcontractor to furnish, for the Owner's and Architect's written approval, a physical sample of each specified item, product, fixture, or device which is visible by the general public and/or attached to an architecturally-finished surface. Samples shall be suitably labeled, adequately protected, and properly stored at the site. Samples which are approved and undamaged will be considered to be suitable for incorporation into the Work.

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§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. Specific dimensions, quantities, installation and performance of equipment and systems in compliance with the Construction Documents and the Contract Documents remain the Contractor's responsibility.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on

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all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, completeness and accuracy of the services, certifications, and approvals performed or provided by such design professionals. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. A registered architect must prepare plans and specifications for all the Work, as governed by the Texas Occupations Code Chapter 1051; and a registered engineer must prepare plans, specifications and estimates for all Work governed by Texas Occupations Code Chapter 1001. In the event that Contractor retains a licensed design professional under the terms of this paragraph, Contractor shall require that the licensed design professional carry commercial general liability and errors and omissions insurance coverage in the same amounts and forms as required of the Architect on this Project. In the event that the licensed design professional retained by the Contractor will be conducting on-site services or observations, the licensed design professional shall also carry worker's compensation insurance and comprehensive automobile liability in the same amounts and forms as required of the Architect on this Project.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.12.11 The Contractor shall submit complete drawings, data and samples to the Architect at least fifteen (15) days prior to the date the Contractor needs the reviewed submittals and samples returned. The Contractor shall be prepared to submit color samples on any key items (such as quarry tile, vinyl wall covering, etc.) within fifteen (15) days of the award of Subcontract(s). All color samples required for the Work shall be received within sixty (60) days of the date of the approval of the Contract Sum if the Project is an A101 project, or Guaranteed Maximum Price if the Project is an A133 project. Once samples of all key items are received, the Architect will finalize color selections.

§ 3.12.12 The Contractor shall submit the number of copies of product data and samples which the Contractor and subcontractors need for their use, plus two additional sets for the Architect, one additional set for the Owner and one additional set for each of the Architect's consultants involved with the particular section of Work. Where shop drawings are involved, the Contractor shall submit one high quality reproducible transparency and one opaque print of the shop drawing for the Architect, plus one additional opaque print for each of the Architect's consultants involved with the particular section of Work. The reproducible transparency will be marked by the Architect and/or its consultants. After final review and correction of the submittal, the Contractor shall send one corrected set to the Architect and each of the Architect's consultants involved with the particular section of Work.

§ 3.12.13 The Architect's review of Contractor's submittals shall be limited to examination of an initial submittal and one (1) re-submittal. The Architect's review of additional submittals will be made only with the consent of the Owner after notification by the Architect. The Owner shall be entitled to reimbursement from the Contractor of amounts paid to the Architect for evaluation of such additional re-submittals.

§ 3.12.14 The Contractor represents and warrants that all shop drawings shall be prepared by persons and entities possessing expertise and experience in the trade for which the shop drawings are prepared and, if required by the Architect or applicable law, by a licensed engineer.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other adversity is solely the responsibility of the Contractor.

§ 3.13.3 The Contractor and its subcontractors shall not erect any sign on the Project site without the prior written consent of the Owner.

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§ 3.13.4 Contractor shall ensure that the Work, at all times, is performed in a manner that affords Owner reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed in such a manner that public areas adjacent to the Site of the Work shall be free from all debris, building material and equipment likely to cause hazardous conditions. Without limitation of any other provision of the Construction Documents, Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of any area or building adjacent to the site of the Work, or the building, in the event of partial occupancy.

§ 3.13.5 Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrance and parking areas other than those designated by the Owner. The Contractor shall comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the Building.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly, provided, however, that any such cutting, fitting or patching can only be performed if the cutting, fitting or patching results in Work that is in accordance with the Construction Documents and Contract Documents. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.14.3 No cutting of structural elements will be permitted unless specifically approved in writing by Architect. Fitting and patching shall only be done with new products, and shall only be performed by those skilled in performing the original Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall, on a daily basis, keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. Contractor shall provide on-site containers for the collection of waste materials, debris and rubbish, and shall periodically remove waste materials, debris and rubbish from the Work and dispose of all such materials at legal disposal areas away from the site. All cleaning operations shall be scheduled so as to ensure that contaminants resulting from the cleaning process will not fall on newly-coated or newly-painted surfaces. Immediately after unpacking materials, all packing case lumber or other packing materials, wrapping or other like flammable waste shall be collected and removed from the building and premises. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project. Care shall be taken by all workers not to mark, soil, or otherwise deface any finish. In the event that any finish becomes defaced in any way by mechanics or workers, the Contractor or any of its Subcontractors shall clean and restore such surfaces to their original condition.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.15.3 The Contractor shall be responsible for the protection of the Work. Prior to the Architect's inspection for Substantial Completion, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.

§ 3.15.4 After construction is complete, Contractor shall: (1) employ skilled workers for final cleaning; (2) remove grease, mastic adhesive, dust, dirt, stains, fingerprints, labels and other foreign materials from all sight-exposed

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interior and exterior surfaces; (3) wash and shine glazing and mirrors; (4) polish glossy surfaces to a clear shine; (5) vacuum clean carpeted and similar soft surfaces; (6) clean (damp mop with clean mop and water) resilient and hard surface floors repeating as necessary until no visible residue remains on floors; (7) clean plumbing fixtures to a sanitary condition; (8) clean surfaces of all equipment and remove excess lubrication; (9) clean permanent filters and replace disposable filters in ventilating systems if units were operated during construction and clean ducts, blowers and coils; (10) clean light fixtures; (11) remove waste, foreign matter and debris from roofs, gutters, area ways and drainage ways; (12) remove waste, debris and surplus materials from the site; (13) remove stains, spills and foreign substances from paved areas; and (14) broom clean exterior concrete and paved surfaces and rake clean the grounds.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect and their designated representatives with access to the Work in preparation and progress wherever located. The presence of the Owner, Architect or their representatives does not constitute acceptance or approval of the Work.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. THE CONTRACTOR SHALL DEFEND SUITS OR CLAIMS FOR INFRINGEMENT OF COPYRIGHTS AND PATENT RIGHTS, SHALL WAIVE AND RELEASE CLAIMS AGAINST THE OWNER AND ARCHITECT, AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER AND ARCHITECT FROM LOSS ON ACCOUNT THEREOF, PROVIDED, HOWEVER, CONTRACTOR SHALL NOT BE RESPONSIBLE TO ARCHITECT FOR SUCH DEFENSE OR LOSS WHEN A PARTICULAR DESIGN, PROCESS OR PRODUCT OF A PARTICULAR MANUFACTURER OR MANUFACTURERS IS REQUIRED BY THE CONTRACT DOCUMENTS, OR WHERE THE COPYRIGHT VIOLATIONS ARE CONTAINED IN DRAWINGS, SPECIFICATIONS OR OTHER DOCUMENTS PREPARED BY THE ARCHITECT, AND SHALL NOT BE RESPONSIBLE TO OWNER IF OWNER REQUIRES A PARTICULAR DESIGN, PROCESS OR PRODUCT THAT CONSTITUTES A COPYRIGHT VIOLATION.

However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Owner and Architect in writing.

§ 3.18 Indemnification

§ 3.18.1 TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL WAIVE AND RELEASE CLAIMS AGAINST AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, ARCHITECT, OWNER'S TRUSTEES, ARCHITECT'S CONSULTANTS, OWNER'S CONSULTANTS AND OFFICERS, AGENTS AND EMPLOYEES OF ANY OF THEM, FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, CAUSES OF ACTION, SUITS, JUDGMENTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, PROVIDED THAT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (INCLUDING THE WORK ITSELF) INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, ANYONE THEY CONTROL OR EXERCISE CONTROL OVER, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN PART BY ANY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF OWNER OR OWNER'S CONSULTANTS OR OTHER INDEMNIFIED PARTIES. SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY THAT WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS SECTION 3.18. ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY CONTRACTOR TO THE INDEMNIFIED PARTIES, AND ANY COST AND EXPENSES SO INCURRED BY INDEMNIFIED PARTIES SHALL BEAR INTEREST UNTIL REIMBURSED BY CONTRACTOR, AT THE RATE OF INTEREST PROVIDED TO BE PAID BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF TEXAS.

§ 3.18.2 IN CLAIMS AGAINST ANY PERSON OR ENTITY INDEMNIFIED UNDER THIS SECTION 3.18 BY AN EMPLOYEE OF THE CONTRACTOR, A SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION UNDER SECTION 3.18.1 SHALL NOT BE LIMITED BY A LIMITATION

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ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR A SUBCONTRACTOR UNDER INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS.

§ 3.18.3 THE OBLIGATIONS OF THE CONTRACTOR UNDER THIS SECTION 3.18 SHALL NOT EXTEND TO THE LIABILITY OF THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND AGENTS AND EMPLOYEES OF ANY OF THEM, CAUSED BY OR RESULTING FROM: (1) DEFECTS IN PLANS, DESIGNS, OR SPECIFICATIONS PREPARED, APPROVED, OR USED BY THE ARCHITECT OR ENGINEER; OR (2) NEGLIGENCE OF THE ARCHITECT OR ENGINEER IN THE RENDITION OR CONDUCT OF PROFESSIONAL DUTIES CALLED FOR OR ARISING OUT OF THE CONSTRUCTION CONTRACT AND THE PLANS, DESIGNS, OR SPECIFICATIONS THAT ARE A PART OF THE CONSTRUCTION CONTRACT; AND (3) ARISING FROM : (A) PERSONAL INJURY OR DEATH; (B) PROPERTY DAMAGE; OR (C) ANY OTHER EXPENSE THAT ARISES FROM PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, OR AS OTHERWISE LIMITED BY TEXAS CIVIL PRACTICE & REMEDIES CODE SECTION 130.001 *ET SEQ.*

§ 3.18.4 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS IS PROVIDED IN SECTION 3.18.1 ABOVE. LIKEWISE, CONTRACTOR AGREES TO INDEMNIFY AND TO HOLD THE OWNER'S OTHER CONTRACTORS HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS PROVIDED IN SECTION 3.18.1 ABOVE.

§ 3.18.5 THE PROVISIONS OF SECTION 3.18 IN ITS ENTIRETY SHALL SURVIVE THE COMPLETION, TERMINATION OR EXPIRATION OF THIS CONTRACT.

§ 3.18.6 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under Paragraph 3.18, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect.

§ 3.18.7 It is understood and agreed that Subparagraph 3.18.1 above is subject to, and expressly limited by, the terms and conditions of Texas Civ. Prac. & Rem. Code Ann. Sec. 130.001 to 130.005, as amended.

§ 3.18.8 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY {INCLUDING THE WORK ITSELF} INCLUDING LOSS OF USE, TO THE SAME EXTENT AS PROVIDED IN SUBPARAGRAPH 3.18.1 ABOVE.

§ 3.19 ANTITRUST VIOLATION. To permit the Owner to recover damages suffered in antitrust violations, Contractor hereby assigns to Owner any and all claims for overcharges associated with this Contract which violate the antitrust laws of the United States, 15 U.S.C.A. Section 1 *et seq.* The Contractor shall include this provision in its agreements with each subcontractor and supplier. Each subcontractor shall include such provisions in agreements with sub-subcontractors and suppliers.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner.

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§ 4.1.3 Except as expressly provided herein, the Contractor shall not be relieved of Contractor's obligation to perform the Work in strict accordance with the Construction Documents and the Contract Documents by the duties, responsibilities, or activities of the Architect.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction, until final payment is due, and, with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Section 12.2.2. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, or as they may be amended in the future.

§ 4.2.2 Architect shall visit the site at least once per week (or more per week when deemed necessary by the Owner's Superintendent or when necessary to protect Owner's interests) and at other intervals appropriate to the stage of construction, to inspect the progress, quantity and quality of the work completed, to reject any observed nonconforming Work, and to determine if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Construction Documents and the Contract Documents and on time. Furthermore, a minimum of two job site meetings per month from commencement of construction through Final Completion will be initiated by the Architect and attended by the Contractor. Attendees will include the Owner, the Contractor's project manager and/or superintendent, Architect's project representative, and Architect. The Architect, Owner and their representatives shall at all times have access to the Work. Architect or its structural consultant will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition, Architect or its structural consultant will provide on-site observations prior to covering up or closing up of portions of the construction which, if covered, would conceal problems with the structural integrity of the Project. Contractor shall not close or cover said Work until said observations have occurred. Contractor or Architect will advise Owner of the need for any third-party laboratory or testing services to assist the Architect and Owner. On the basis of the on-site observations by Architect, Architect shall keep Owner and Contractor informed of the progress and quality of the Work, through Architect's field reports, and shall guard Owner against defects and deficiencies in the Work. Architect shall promptly notify Owner and Contractor orally regarding any defect or nonconforming Work, which shall be followed by notice in writing of defects or nonconforming Work noted and corrective actions taken or recommended. The Architect, however, shall not have control over or responsibility for the Contractor's construction means, methods, techniques, sequences, procedures, or safety programs, but this does not relieve Architect of Architect's responsibilities under this Agreement. Any services by Contractor made necessary by Contractor's construction defect or nonconforming Work shall be performed at no additional cost to Owner.

§ 4.2.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work. The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect, or request of the Contractor.

§ 4.2.4 Communications

Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. However, Owner reserves the right to communicate directly with the Contractor and Subcontractors. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner.

§ 4.2.5 As further provided in the Contract Documents, based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect shall reject Work that does not conform to the Construction Documents and the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have will recommend to Owner additional inspection or testing of the Work in accordance with the provisions of the Contract Documents,

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whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Owner to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. Architect and/or Contractor shall promptly notify, orally and in writing, the other party and Owner of any fault or defect in the Project or nonconformance with Construction Documents or the Contract Documents they may respectively discover and each, upon discovery of the defect or nonconformance, shall be responsible for notifying the other party and Owner of those corrective actions they respectively take; provided, however, Contractor shall have no duty to notify Owner of discoveries made or actions taken by Architect. Testing or inspections required by this subparagraph shall be conducted subject to the requirements of Chapter 2269 of the Texas Government Code.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Construction Documents and the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or Separate Contractors while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation of equipment or systems, all of which remain the responsibility of the Contractor as required by the Construction Documents and the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. If any submittal does not comply with the requirements of the Construction Documents or the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples.

§ 4.2.8 The Architect shall review, prepare and make recommendations to Owner regarding all Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Construction Documents and the Contract Documents, accompanied by all supporting documentation. The Architect may authorize minor changes in the Work not involving an adjustment in Contract Sum or Guaranteed Maximum Price, or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified, as provided in Section 7.4. The Architect shall accept requests by the Owner, and shall review properly prepared, timely requests by the Contractor for changes in the Work, including adjustments to the Contract Sum or Guaranteed Maximum Price, or Contract Time. A properly prepared request for a change in the Work by the Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Construction Documents or the Contract Documents, and do not change the Contract Sum or Guaranteed Maximum Price, or Contract Time, then the Architect may issue an order for a minor change in the Work with prior written notice to the Owner or recommend to the Owner that the requested change be denied. The Architect is not authorized to approve changes involving major systems such as: Heating, Ventilation and Air Conditioning ("HVAC"); roof; foundation; outward appearance; color schemes; floor plans; building materials; drainage or mechanical equipment without Owner's prior written consent.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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§ 4.2.11 The Architect will interpret and make recommendations concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations or recommendations of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and recommendations, the Architect will endeavor to secure faithful performance by both Owner and Contractor.

§ 4.2.13 The Owner's decisions on matters relating to aesthetic effect shall be final.

§ 4.2.14 The Architect will review and respond to requests for information about the Construction Documents and the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information, at no additional cost to the Owner.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect in writing of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect shall notify in writing the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. All subcontractors shall be procured in accordance with Texas Education Code Chapter 44, Subchapter B, and Texas Government Code Chapter 2269, as applicable. A notice of no reasonable objection shall in no way relieve the Contractor from full responsibility for performance and completion of the Work and its obligations under the Contract Documents. The Contractor shall be fully responsible for the performance of its subcontractors, including those recommended or approved by the Owner.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. When the parties agree on a proposed substitute Subcontractor, then the Contract Sum and Contract Time may be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.2.5 Each Contractor or subcontractor shall be required to completely familiarize itself with the plans and specifications, to visit the Work site to completely familiarize itself with existing conditions, and to conduct any other

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appropriate investigations, inspections or inquiries prior to submission of a bid or proposal. No increases in Contract Sums or Guaranteed Maximum Price shall be allowed for failure to so inspect or investigate.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. The terms and conditions of the Contract Documents shall be incorporated by reference into each subcontract agreement, included as provided below. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors. Each subcontractor shall provide proof of insurance to Contractor consistent with the Contractor's insurance to Owner and in an amount commensurate with the Work to be performed by the Subcontractor.

§ 5.3.1 Neither the Owner nor the Architect shall be obligated to pay or to insure the payment of any monies to subcontractors due to any non-payment to the Contractor or non-payment of subcontractors by the Contractor.

§ 5.3.2 The Contractor shall require any potential subcontractor to disclose to the Contractor any ownership interest or familial relationship between the Contractor, the Architect or the Owner and the potential subcontractor prior to entering into a subcontract. Contractor shall report to Owner all such disclosures and the Owner shall have the right, in its sole discretion, to reject any such affiliated subcontractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for any unperformed portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause or convenience pursuant to Article 14 or abandonment of the Project by the Contractor; and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights and obligations of the surety, if any, obligated under bond relating to the Contract; and
- .3 the Subcontractor provides bonds as required by law or prime contractors and by Owner.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Such assignment shall not constitute a waiver by Owner of its rights against Contractor, including, but not limited to, claims for defaults, delays or defects for which a subcontractor or material vendor may also be liable.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. Owner shall only be responsible for compensating subcontractors for Work performed or materials furnished from and after the date on which the Owner gives written notice of its acceptance of the subcontract agreement. Owner shall not be responsible for any Work performed or materials furnished by subcontractors prior to the date of Owner's written notice of acceptance.

§ 5.5 NOTICE OF SUBCONTRACTOR DEFAULT

Contractor shall promptly notify Owner and Architect of any material defaults by any Subcontractor or Sub-subcontractor. Notwithstanding any provision contained in Article 5 to the contrary, it is hereby acknowledged and agreed that Owner has in no way agreed, expressly or implicitly, nor will Owner agree, to allow any

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Subcontractor, Sub-subcontractor or other materialman or worker employed by Contractor the right to obtain a personal judgment or to create a mechanic's or materialman's lien against Owner for the amount due from the Owner or the Contractor.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. The Owner reserves the right to perform other non-Project-related construction work, maintenance and repair work, and school program operations at the site and near the site during the time period of the Work.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Contractor shall coordinate the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor to ensure that the Work remains on schedule. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement between the Owner and Contractor. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 [*Intentionally deleted.*]

§ 6.2 Contractor's Responsibility

§ 6.2.1 It shall be the responsibility of the Contractor to assist, review, and coordinate the scheduling of work performed by any of the Owner's Separate Contractors. In addition, the Contractor shall be responsible for coordinating and providing all construction administration necessary for the Work and the work of any of Owner's Separate Contractors. The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for site access and introduction and storage or staging of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents. Contractor shall be responsible for coordination between Contractor's subcontractors and Owner's Separate Contractors. Contractor shall review Owner's contract with Owner's Separate Contractors and become familiar with the requirements and scope of services contained therein.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify in writing the Architect and Owner of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work, and shall promptly report in writing to the Architect and Owner if Owner's Separate Contractors fail in any way to timely perform their services or negatively impact Contractor's schedule or ability to perform the Work. Failure of the Contractor to notify in writing the Architect and Owner of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper and is performed in a timely manner to receive the Contractor's Work. The Contractor shall not be responsible for latent discrepancies or defects in the construction or operations by the Owner or Separate Contractor.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction.

§ 6.2.3.1 If the Architect is required to provide additional services as provided in the Agreement between the Owner and the Architect, specifically relating to additional compensation for the Architect for evaluating an excessive number of claims submitted by the Contractor or others in connection with the Work in accordance with the Owner's Agreement with the Architect, then such services shall be paid for by the Contractor through the Owner, unless the additional services result from negligence of or an act or omission by the Architect.

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§ 6.2.3.2 If the Architect provides services in connection with a legal proceeding, except when the Architect is a party thereto, and the Owner requests the Architect in writing to provide such services, then the cost of such services shall be paid for by the party whose act or omission was a proximate cause of the problem that led to the requirement to provide such services. Such services shall be paid for by such party through the Owner, who upon receipt of same shall reimburse the Architect.

§ 6.2.3.3 All construction costs resulting from the Contractor's negligence, lack of oversight, inattention to detail, failure to investigate, or failure to follow the Construction Documents or Contract Documents, will be borne by the Contractor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Owner will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. A properly prepared written request for a change in the Work by Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a recommendation to Owner.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents or Construction Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work. Contractor shall not make any claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price due to: a change in the materials used; a change in the specified manner of constructing and/or installing the Work; or additional labor, services, or materials, beyond that actually required by the terms of the Construction Documents or the Contract Documents, unless made pursuant to a written order or directive from Owner authorizing Contractor to proceed with a change in the Work. No claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price shall be valid unless so ordered or directed.

§ 7.1.4 The total Contractor mark-up for overhead, profit, or fee for work performed by the Contractor's own forces shall not exceed 10% of the cost of the change in the Work. The total Contractor mark-up for overhead, profit or fee for supervision of work performed by subcontractors' forces shall not exceed 4% of the cost of the change in the Work. The total subcontractor mark-up for overhead, profit or fee for work performed by the subcontractor's forces shall not exceed 10% of the cost of the change in the Work. In no event shall total mark-up for overhead, profit or fee in any work which involves a subcontractor or one or more sub-subcontractors, regardless of who performs the work, exceed 14% of the total cost of the change in the Work.

§ 7.1.5 Allowance balances may be used to fund changes in the Work. The Contractor will not be allowed an overhead, profit, or fee mark-up when changes in the Work are funded by one of the Allowances.

§ 7.1.6 If the Contract Sum is \$1,000,000.00 or more, or if the Contract Sum is less than \$1,000,000.00, and any Change Order, Construction Change Directives, or other Changes in the Work would increase the Contract Sum to \$1,000,000.00 or more, the total of all Change Orders, Construction Change Directives, or other Changes in the Work

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may not increase the Contract Sum by more than 25% of the original Contract Sum. Any Change Order, Construction Change Directive, or other Change in the Work that would exceed that limit is void and of no effect. Texas Education Code § 44.0411.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum or Guaranteed Maximum Price; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods used in determining adjustments to the Contract Sum or Guaranteed Maximum Price may include those listed in Section 7.3.3.

§ 7.2.3 Contractor stipulates that acceptance of a Change Order by the Contractor constitutes full accord and satisfaction for any and all Claims, whether direct or indirect, arising from the subject matter of the Change Order.

§ 7.2.4 In no event shall a single change, or the aggregate of all changes, result in the total costs, reimbursements and fees exceeding the Contract Sum or the Guaranteed Maximum Price, unless agreed to in writing by Owner prior to the commencement of such modified or changed Work.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum, or Guaranteed Maximum Price, or Contract Time, or all of the above. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum or Guaranteed Maximum Price and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum or Guaranteed Maximum Price, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon (additional mark-ups for overhead, profit, and fees will not be allowed);
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee, subject to the limitations of subparagraph 7.4.1; or
- .4 As provided in Section 7.3.4, subject to the limitations of subparagraph 7.1.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum or Guaranteed Maximum Price, then Architect shall determine the adjustment on the basis of the amount by which the Contractor's direct costs have actually been increased over the direct cost of performing the Work without the Change in the Work. Direct costs shall be limited to the following:

- .1 Actual costs of labor, including applicable payroll taxes, and workers' compensation insurance;
- .2 Actual costs of materials, supplies, and equipment, including cost of transportation used in performing the Change in the Work;
- .3 Actual rental costs of machinery and equipment rented from third parties, exclusive of hand tools;
- .4 Actual costs of premiums for all bonds and insurance, and permit fees;
- .5 Costs of supervision and field office personnel directly attributable to the change.

The Contractor shall keep and present, in such form as the Architect or Owner may prescribe, an itemized accounting of the items listed above, together with appropriate supporting documentation.

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§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Guaranteed Maximum Price, or Contract Time, provided that, pursuant to Texas Government Code Section 2251.0521, Contractor shall not be required to proceed with additional work nor be responsible for any damages resulting from not proceeding with such work absent a fully-executed Change Order when such Construction Change Directive, either individually or collectively with other Construction Change Directives for which no Change Order has been fully executed, exceeds ten percent (10%) of the Guaranteed Maximum Price or the Contract Sum. No subcontractor shall be required to proceed with additional work nor be responsible for any damages resulting from not proceeding with such work absent a fully-executed Change Order when such Construction Change Directive, either individually or collectively with other Construction Change Directives for which no Change Order has been fully executed, exceeds ten percent (10%) of the subcontractor's contract amount.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum or Guaranteed Maximum Price, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost plus the Contractor's allocated percent of profit and overhead, all as confirmed by the Architect.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

With prior written notice to the Owner's representative, the Architect may order minor changes in the Work that are consistent with the Contract Documents or Construction Documents and do not involve an adjustment in the Contract Sum or Guaranteed Maximum Price, or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Guaranteed Maximum Price, or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Guaranteed Maximum Price, or Contract Time, the Contractor waives any adjustment to the Contract Sum or Guaranteed Maximum Price, or extension of the Contract Time. The Contractor shall carry out such written orders promptly. Minor changes in the Work shall not include changes that involve the outward appearance of the structure, color schemes, floor plans, building materials, landscaping, or mechanical equipment.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Final Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the first business day after Contractor's receipt of the written Notice to Proceed. The Notice to Proceed shall not be issued by Architect until the Agreement (or Amendment, if Contractor is a Construction Manager at Risk) has been signed by the Contractor, approved by Owner's Board of Trustees, signed

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by the Owner's authorized representative, and Owner and Architect have received, and approved as to form, all required payment and performance bonds and insurance, in compliance with Article 11. Issuance of the Notice to Proceed shall not relieve the Contractor of its responsibility to comply with Article 11..

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8. The date of Final Completion is the date certified by the Architect in accordance with Paragraph 9.10. Unless otherwise agreed in writing by Owner, Contractor agrees that Final Completion shall occur not more than 30 days after the date of Substantial Completion.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor stipulates that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial and Final Completion within the Contract Time.

§ 8.2.4 The Contractor is subject to liquidated damages, as specified in the Agreement, if the Work is not completed by the date of Substantial Completion or the date of Final Completion.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by fire, governmental actions, or adverse weather conditions documented in accordance with Section 15.1.6.2; (4) by delay authorized in writing by the Owner; or (5) by other causes that the Contractor asserts, and the Architect and Owner determine, may justify delay, then the Contract Time may be extended for such reasonable time as the Architect and Owner may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Agreement does not permit the recovery of damages, including, without limitation, extended home office overhead expenses, general conditions, or other consequential damages, by the Contractor for delay or disruption or for extensions of time due to bad weather or acts of God. Contractor agrees that the only possible compensation for any delay is an extension of time.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. In the event that the Project is a Construction Management at Risk Project, the Contract Sum shall not exceed the Guaranteed Maximum Price.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices may be equitably adjusted by prior written agreement.

§ 9.2 Schedule of Values

§ 9.2.1 Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum or in the case of a Guaranteed Maximum Price, within 15 days after establishing the Guaranteed Maximum Price, to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as

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a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The schedule of values shall be prepared in such a manner that each major item of work, whether done by Contractor's own forces or subcontracted, is shown as a single line item on AIA Documents G702 and G703, Application and Certificate for Payment and Continuation Sheet. If the Contractor is a Construction Manager at Risk, then the Contractor's fee and general conditions shall be specifically shown, and AIA Documents G702CMa and G703 shall be used.

§ 9.2.2 If the project is a Construction Manager at Risk project, in order to facilitate the review of Applications for Payment, the Schedule of Values shall be submitted on AIA Documents G702 and G703, and shall include the following:

- .1 Contractor's cost for Contractor's fee (if applicable) bonds and insurance, mobilization, or general conditions, etc. shall be listed as individual line items.
- .2 Contractor's costs for various construction items shall be detailed. For example, concrete work shall be subdivided into footings, grade beams, floor slabs, or paving, etc.
- .3 On major subcontracts, such as mechanical, electrical and plumbing, the schedule shall indicate line items and amounts in detail (for example: underground, major equipment, fixtures, installation fixtures, or start-up, etc.).
- .4 Costs for subcontract work shall be listed without any additional mark-up of Contractor's costs for overhead, profit, or supervision.
- .5 If payment for stored materials is requested prior to installation, then material and labor shall be listed as separate line items.
- .6 Contractor shall provide a report of actual versus projected reimbursable expenses (general conditions), updated monthly.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage.

§ 9.3.1.1 Contractor agrees that, for purposes of Texas Government Code Sections 2251.021 and 2251.042, receipt of the Application for Payment by the Architect shall not be construed as receipt of an invoice by the Owner. Contractor further agrees that Owner's receipt of the Certificate for Payment shall be construed as receipt of an invoice by the Owner, for purposes of Texas Government Code Sections 2251.021 and 2251.042.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor has not been invoiced by a Subcontractor or supplier, unless Contractor has self-performed the Work.

§ 9.3.1.3 Until Final Completion of the Work, the Owner shall withhold retainage as provided in the Contract Documents, except that Owner shall not pay amounts for which the Architect refuses to certify payment, or the Owner refuses to pay, as provided herein in Section 9.4.3 or 9.5, as amended. The retainage shall be paid with the Final Payment. *(Note: if more than 5% is retained, under Texas law, then the retainage must be placed in an interest-bearing account, and the contractor must be paid the interest earned on the retainage upon completion of the Work. Texas Government Code Section 2252.032).*

§ 9.3.2 Payments will be made on the basis of invoices for specific materials or equipment incorporated in the Work and specific materials or equipment (1) suitably stored at the site or (2) suitably stored at some off-site location, provided the following conditions are met for off-site storage:

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- .1 The location must be agreed to, in writing, by the Owner and Surety.
- .2 The location must be a bonded warehouse.
- .3 The Contractor's Surety must agree, in writing, to the amounts included in each Application for Payment.
- .4 The Contractor must bear the cost of the Owner's and Architect's expenses related to visiting the off-site storage area and reviewing the stored contents. Contractor acknowledges that Architect's time may be an Additional Service and shall compensate Architect directly for same upon request.
- .5 Payment shall not include any charges for overhead or profit on stored materials.
- .6 Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other documentation satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance (naming the Owner as insured and naming the specific materials or equipment stored and their location) and proof of delivery to the site for those materials and equipment stored off the site. Under no circumstances will the Owner reimburse the Contractor for down payments, deposits, or other advance payments for materials or equipment until the materials or equipment are delivered to Owner's site or the agreed-upon off-site storage. Failure to follow these procedures shall result in nonpayment for storage of or insurance on stored materials and equipment. Failure to follow these procedures shall also result in nonpayment of materials and equipment until said materials and equipment are incorporated into the Work.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work. Neither Contractor nor any of its materialmen, laborers or Subcontractors shall have any lien rights against the Owner's lands, building funds, materials or other property. No materialmen, laborers or Subcontractors of the Contractor shall have any enforceable rights against the Owner on this Contract. Materialmen, laborers and Subcontractors of the Contractor may have rights under any Payment Bond provided by the Contractor, but cannot look to the Owner for any help in enforcement of those rights. CONTRACTOR SHALL WAIVE, RELEASE, INDEMNIFY, AND HOLD OWNER HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTERESTS OR ENCUMBRANCES FILED BY THE CONTRACTOR, SUBCONTRACTORS, OR ANYONE CLAIMING BY, THROUGH, OR UNDER THE CONTRACTOR OR SUBCONTRACTOR FOR ITEMS COVERED BY PAYMENTS MADE BY THE OWNER TO CONTRACTOR.

§ 9.3.4 Contractor shall submit Applications for Payment electronically or, if requested by owner, in writing and in quadruplicate using AIA Documents G702 and G703 Application and Certificate of Payment (or G702CMa, if applicable) and Continuation Sheet. All blanks in the form must be completed and signatures of Contactor and Notary Public must be original on each form. Incomplete or inaccurate Applications for Payment shall be returned to the Contractor by the Architect for completion and/or correction. Owner shall have no responsibility for payment of same if the Application for Payment is incomplete or inaccurate.

§ 9.3.5 By signing each Application for Payment, the Contractor stipulates and certifies to the following: that the information presented is true, correct, accurate and complete; that the Contractor has made the necessary detailed examinations, audits, and arithmetic verifications; that the submitted Work has been completed to the extent represented in the Applications for Payment; that the materials and supplies identified in the Applications for Payment have been purchased, paid for, and received; that the subcontractors have been paid as identified in the Applications for Payment or that Contractor has been invoiced for same; that Contractor has made the necessary on-site inspections to confirm the accuracy of the Applications for Payment; that there are no known mechanics' or materialmen's liens outstanding at the date of the Application for Payment; that all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current Payment Application; that, except for such bills not paid but so included, there is no known basis for the filing of any mechanics' or materialmen's liens on the

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Work; that the Payment Application includes only Work self-performed by Contractor or for which Contractor has been invoiced; and that releases from all Subcontractors and materialmen have been obtained in such form as to constitute an effective release of lien under the laws of the State of Texas covering all Work performed and for which payment has been made by the Owner to the Contractor. Contractor understands that documents submitted to Owner become government documents under the laws of the State of Texas. Contractor further understands that falsification of Contractor's Application for Payment may constitute a violation of the penal laws of the State of Texas, including, but not limited to, Texas Penal Code Sections 32.46, 37.09, and 37.10, and may justify termination of Contractor's Contract with Owner. Contractor further understands and agrees that falsification of documents may entitle Owner to restitution as permitted by Texas law and these Contract Documents.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment carefully evaluate and review the Application for Payment and, when appropriate, return the Application for Payment to the Contractor as provided in Section 9.3.4. If the Application for Payment is complete, then the Architect shall sign and either (1) certify and issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) certify and issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing with a detailed statement of the Architect's reasons for withholding certification and disputing in part certification in accordance with Texas Government Code Section 2251.042(2)) and as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner in writing with a detailed statement of the Architect's reason for withholding certification in whole in accordance with Texas Government Code Section 2251.042(a) and as provided in Section 9.5.1.

Architect's written reasons for withholding certification shall be construed as the notice required by Texas Government Code Section 2251.042 *et seq.* Owner may not withhold from payments more than 110% of the disputed amount. Owner shall provide certifications of payment for any of the Owner's separate consultants or contractors on Architect's prior written request.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, that the Architect has observed the progress of the Work and determined that, in the Architect's professional opinion, the Work has progressed to the point indicated, and the quality of the Work is in accordance with the Contract Documents. Further, the issuance of the Certificate for Payment will constitute a representation by the Architect to the Owner that the Architect has carefully evaluated and certified that the amounts requested in the Application for Payment are valid and correct. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect in writing to the Owner. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data unless requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum. Examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's accountants or other representatives of the Owner acting in the sole interest of the Owner.

§ 9.4.3 The issuance of a Certificate for Payment shall constitute a recommendation to the Owner regarding the amount to be paid. This recommendation is not binding on the Owner if Owner knows of other reasons under the Contract Documents why payment should be withheld.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as

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may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 repeated failure to carry out the Work in accordance with the Contract Documents; or
- .8 failure to submit a written plan indicating action by the Contractor to regain the time schedule for completion of Work within the Contract time.

§ 9.5.2 When the Contractor disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, the Contractor may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 Notwithstanding any provision contained within this Article, if the Work has not attained Substantial Completion or Final Completion by the required dates, subject to extensions of time allowed under the Contract Documents, then Architect may withhold any further Certificate for Payment from Contractor to the extent necessary to preserve sufficient funds to complete the construction of the Project and to cover liquidated damages. The Owner shall not be deemed in default by reason of withholding payment as provided for in Sections 9.3.4, 9.4.3, 9.5.1, or this Section.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment for undisputed amounts in the manner and within the time provided in the Contract Documents, and shall so notify the Architect. Owner shall notify Contractor within 21 days if Owner disputes the Architect's Certificate for Payment pursuant to Texas Government Code Section 2251.042 *et seq.*, listing the specific reasons for nonpayment. Payments to the Contractor shall not be construed as releasing the Contractor or its Surety from any obligations under the Contract Documents.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. In compliance with Texas Government Code Section 2251.022, the Contractor shall, within ten (10) days following receipt of payment from the Owner, pay all bills for labor and materials performed and furnished by others in connection with the Work, and shall, if requested, provide the Owner with evidence of such payment. Contractor shall include a provision in each of its subcontracts imposing the same payment obligations on its Subcontractors as are applicable to the Contractor hereunder, and if the Owner so requests, shall provide to the Owner copies of such Subcontractor payments. If the Contractor has failed to make payment promptly to the Contractor's Subcontractors or for materials or labor used in the Work for which the Owner has made payment to the Contractor, then the Owner shall be entitled to withhold payment to the Contractor in part or in whole to the extent necessary to protect the Owner. This Section is subject to the provisions of Texas Business and Commerce Code Chapter 56.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers

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to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier. Any action taken by the Owner to require the Contractor to pay a Subcontractor shall not impose any liability on Owner to the Subcontractor or supplier.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision. Payments received by the Contractor from the Owner for Work properly performed by Subcontractors, or materials properly provided by suppliers, shall be held in trust by the Contractor for the benefit of those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor. Texas Property Code § 162.001.

§ 9.6.8 The Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.6.9 Contractor shall not withhold as a retainage a greater percentage from Subcontractors or materialmen than the percentage that Owner withheld as retainage from payments to Contractor.

§ 9.7 Failure of Payment

§ 9.7.1 Pursuant to Texas Government Code Section 2251.051, if the Owner does not pay the Contractor any payment certified by the Architect, which is undisputed, due, and owing after the date the payment is due under the Contract Documents then the Contractor, upon ten (10) additional days' written notice to the Owner and Architect that payment has not been made and the Contractor intends to suspend performance for nonpayment, may stop the Work until payment of the undisputed amount owing has been received. If the Owner provides written notice to the Contractor that: 1) payment has been made; or 2) a bona fide dispute for payment exists, listing the specific reasons for nonpayment, then Contractor shall be liable for damages resulting from suspension of the Work. If a reason specified is that labor, services, or materials provided by the Contractor are not provided in compliance with the Contract Documents, then the Contractor shall be provided a reasonable opportunity to cure the noncompliance or to compensate Owner for any failure to cure the noncompliance. No amount shall be added to the Contract Sum as a result of a dispute between Owner and Contractor unless and until such dispute is resolved in Contractor's favor.

§ 9.7.2 If the Architect does not issue a Certificate for Payment within seven days after receipt of the Contractor's Application for Payment, through no fault of the Contractor, then the Contractor shall provide written notice to the Owner, and the Owner shall have fourteen (14) business days after receipt of such notice to provide or obtain a Certificate for Payment. If Owner fails to provide or obtain the Certificate for Payment, then the Contractor may, upon fourteen (14) additional business days' written notice to the Owner and Architect, stop the Work until payment of the undisputed amount owing has been received.

§ 9.7.3 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, then such payment shall be made promptly upon demand by the Owner. Notwithstanding anything contained in the Contract Documents to the contrary, if the Contractor fails to promptly make any payment due to Owner, pursuant to the Contract, or if the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, then the Owner shall have an absolute right to offset such amount against the Contract Sum and, in the Owner's sole discretion and without waiving any other remedies, may elect either to:

- .1 deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due to Contractor from the Owner, or
- .2 issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use; all Project systems included in the Work or designated portion thereof have been successfully tested and are fully operational; all required governmental inspections and certifications required of the Work have been made, approved and posted; designated initial instruction of Owner's personnel in the operation of Project systems has been completed; and all the required finishes set out in the Construction Documents are in place. The only remaining Work shall be minor in nature so that the Owner can occupy the Work or the applicable portion of the Work for all of its intended purposes on that date; and the completion of the Work by the Contractor will not materially interfere with or hamper Owner's normal school operations or other intended use. As a further condition of a determination of Substantial Completion, the Contractor shall certify that all remaining Work shall be completed within 30 days. Contractor shall complete Owner's or the State's Substantial Completion Certificate. The payment certification shall state the date of Substantial Completion, the punch list provided by the Contractor to address all remaining areas of the Project, and all known Owner-accepted non-conforming work. Required certifications of work requested or required by the Owner shall be limited to work required under the Contract Documents.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, then the Architect shall so notify the Contractor and Owner in writing, and the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion. Except with the consent of the Owner, the Architect shall perform no more than five inspections to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner shall be entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare, sign and issue Owner's Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Final Completion of the Work or designated portion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when agreed to by the Owner and the Contractor in writing, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided that the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work resulting from such occupancy, use or installation, and property and liability insurance. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of

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the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect. Contractor agrees that the Owner may place and install as much equipment and furnishings as is possible before completion or partial completion of portions of the Work.

§ 9.9.2 Immediately prior to such partial occupancy, use, or installation, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon in writing, partial occupancy or use of a portion or portions of the Work or installation of furnishings and equipment shall not constitute acceptance of Work not complying with the requirements of the Contract Documents, nor shall it constitute evidence of Substantial Completion or Final Completion.

§ 9.9.4 In the event that Owner takes partial occupancy or installs furnishings and equipment prior to Substantial Completion of the Project, Contractor shall obtain an endorsement to Contractor's Builder's Risk Policy to provide extended coverage for partial occupancy if Contractor's Builder's Risk Coverage required by Article 11 would not otherwise provide such coverage.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly prepare, sign, and issue Owner's Certificate of Final Completion and a final Certificate for Payment certifying to the Owner that on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance, including all retainages, found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. Final payments shall be made by the Owner in accordance with Owner's regular schedule for payments.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) using AIA Document G706, an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) evidence satisfactory to Owner that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) using AIA Document G707, consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) except for amounts previously withheld by the Owner, other data establishing payment or satisfaction of obligations, such as AIA Document G706A, notarized subcontractor's lien releases, receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees. In addition, the following items must be completed and received by the Owner before Final Payment will be due:

- .1 Written certifications required by Sections 10.5, 10.6, and 10.7;
- .2 Final list of subcontractors (AIA Document G705);
- .3 Contractor's certification in Texas Education Agency's Certification of Project Compliance;
- .4 Contractor's warranties, organized as required elsewhere in the Contract Documents;
- .5 Maintenance and Instruction Manuals;

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- .6 Owner's Final Completion Certificate; and
- .7 "As-constructed record drawings". At the completion of the Project, the Contractor shall submit one complete set of "as-constructed" record drawings, with all changes made during construction, including concealed mechanical, electrical, and plumbing items. The Contractor shall submit these as electronic, sepi, or other acceptable medium, in the discretion of the Owner. The "as-constructed" record drawings shall delete the seal of the Architect and/or the Engineer and any reference to those firms providing professional services to the Owner, except for historical or reference purposes.

Documents identified as affidavits must be notarized. All manuals will contain an index listing the information submitted. The index section will be divided and identified by tabbing each section as listed in the index. Upon request, the Architect will furnish the Contractor with blank copies of the forms listed above. Final payment shall be paid by the Owner to the Contractor within thirty (30) days after Owner's Board of Trustees has voted to accept the Work and approve Final Payment. Owner, Architect, Contractor, and prime subcontractors, if applicable, shall certify compliance with all applicable school facility standards required in 19 TAC Section 61.1040 subsections (d) and (g)-(k). 19 TAC Section 61.1040(f).

Per 19 TAC Section 61.1040(6)(f)(C), Contractor shall certify the following:

- (i) Process certifications. To ensure construction quality and performance of contract terms, the Contractor and prime subcontractors, if applicable, shall certify compliance that the Project has been built in conformance with the contract documents.
- (ii) Certifications related to construction quality standards under subsection (j) of 19 TAC Section 61.1040.

To ensure compliance with construction quality standards, the Contractor and prime subcontractors, if applicable, shall certify compliance at the completion of a capital improvement project that the Project has been built in conformance with the contract terms and performance standards specified by the Contract Documents for the Contractor and for any of its subcontractors or subconsultants of any tier, which shall include certification of compliance with any subsequent change order documents approved by the Owner and Architect.

Where a third-party code compliance officer is required by subsection (j) of 19 TAC Section 61.1040 to ensure that a third-party code compliance officer does not find any violations of the provisions of the required construction codes identified in subsection (j)(1) of 19 TAC Section 61.1040 that are not enforced by a state or local authority having jurisdiction, Owner shall require that a third-party code compliance officer issue a third-party certificate of occupancy. Where a local authority having jurisdiction enforces some of the required construction codes, a third-party code compliance officer shall not issue a third-party certificate of occupancy until either the local authority having jurisdiction has issued a certificate of occupancy or the local authority having jurisdiction indicates in writing to the third-party code compliance officer that the local authority having jurisdiction does not issue certificates of occupancy.

Certifications related to safety and security standards under subsection (k) of 19 TAC Section 61.1040. To provide a safe and secure environment, the Contractor and prime subcontractors, if applicable, shall certify compliance that the Project has been built in reasonable accordance with the safety and security directives provided by the school district and reflected in the Contract Documents prepared by the Architect.

Special provisions for a Construction Manager-Agent. For projects that use the construction manager agent contracting method established in Texas Government Code Chapter 2269, Subchapter E, the Construction Manager Agent and each construction prime contractor must provide certification in accordance with clause (i) of 19 TAC Section 61.1040, and each shall certify the scope of work for which they are contractually responsible.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If

the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, and it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall

(Paragraphs deleted)

not constitute a waiver of any Claims by the Owner.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously asserted pursuant to Article 15 and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract and shall conform to all provisions of the "Manual of Accident Prevention in Construction", published by the Associated General Contractors of America, Inc., latest edition, and the Contractor further agrees to fully comply with all safety standards required by the Occupational Safety and Health Administration ("OSHA") 29 USC Section 651 *et seq.*, and all amendments thereto. However, the Contractor's duties herein shall not relieve any Subcontractor or any other person or entity, including any person or entity required to comply with all applicable federal, state and local laws, rules, regulations, and ordinances, from the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. Contractor shall provide reasonable fall protection safeguards and provide approved fall protection safety equipment for use by all exposed Contractor employees.

§ 10.1.1 Contractor's employees, agents, Subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, shall not perform any service for Owner while under the influence of any amount of alcohol or any illegal controlled substance; or use, possess, distribute, or sell alcoholic beverages while on Owner's premises. No person shall: use, possess, distribute, or sell illegal or nonprescribed controlled drugs or drug paraphernalia; misuse legitimate prescription or over-the-counter drugs; or act in contravention of warnings on medications while performing the Work or while on Owner's premises. Contractor's employees, agents, Subcontractors, or anyone directly or indirectly employed by any of them, shall not distribute or sell alcohol or drugs of any kind to Owner's students or staff, regardless of the location of the distribution or sale.

§ 10.1.2 Contractor will comply with all applicable federal, state, and local drug and alcohol-related laws and regulations (e.g., Department of Transportation regulations, Drug-Free Workplace Act). Contractor has adopted or will adopt its own policy to assure a drug-free and alcohol-free workplace while on Owner's premises or performing the Work. Contractor will remove any of its employees, agents, subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, from performing the Work any time there is suspicion of alcohol and/or drug use, possession, or impairment involving such person, and at any time an incident occurs where drug or alcohol use could have been a contributing factor. Owner has the right to require Contractor to remove any person from performing the Work any time cause exists to suspect alcohol or drug use. In such cases, the person so removed may only be considered for return to work after the Contractor certifies, as a result of a for-cause test, conducted immediately following removal, that said person was in compliance with this Contract. Contractor will not use any person to perform the Work who fails or refuses to take, or tests positive on, any for-cause alcohol or drug test.

§ 10.1.3 Owner has also banned the presence of all weapons on the Project site, whether or not the owner thereof has a permit for a weapon, and Contractor agrees that Contractor's representatives, employees, agents, and subcontractors will abide by same. Weapons may only be permitted in Owner's parking lots if weapons are locked in personal vehicles in Owner's parking lot.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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- .1 employees on the Work, school personnel, students, and other persons on Owner's premises, and other persons who may be affected thereby, including the installation of fencing between the Work site and any connecting or adjacent property of Owner, when required by Texas Education Code Section 22.08341;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as other buildings, and other contents, fencing, trees, shrubs, lawns, walks, athletic fields, facilities, and tracks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including installing fencing, posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards. The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any personal or real property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor.

§ 10.2.4 When use or storage of hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel and shall only conduct such activities after giving reasonable advance written notice of the presence or use of such materials, equipment, or methods to Owner and Architect. The storage of explosives on Owner's property is prohibited. The use of explosive materials on Owner's property is prohibited unless expressly approved in advance in writing by Owner and Architect.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 The Contractor shall do all things reasonably necessary to protect the Owner's premises and all persons from damage and injury when all or a portion of the Work is suspended for any reason.

§ 10.2.9 The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work which cause death, bodily injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious bodily injuries, or serious property damages are caused, then the accident shall be reported immediately by any means necessary to give actual notice to the Owner's representative and the Architect.

§ 10.2.10 Contractor's obligations under Section 10.2 as to each portion of the Project shall continue until Owner takes possession of and occupies that portion of the Project.

(Paragraphs deleted)

§ 10.2.11 Injury or Damage to Person or Property

If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or

not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter. Contractor understands and acknowledges that, under Texas law, Owner has sovereign and/or governmental immunity as to all torts except as to the Owner's permitted use or operation of Owner's motor vehicles, subject to any defenses under law.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify in writing the Owner and Architect of the condition. In the event the Contractor encounters polychlorinated biphenyl (PCB), and the specifications require the PCB's removal, the Contractor shall remove the PCB and store it in marked containers at the jobsite provided by the Owner. If PCBs are found which are leaking, then Contractor shall stop work on the affected fixture and shall contact Owner for removal and disposal of the leaking PCBs.

§ 10.3.2 Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contractor may be entitled to an equitable adjustment regarding the Date of Substantial Completion and/or Final Completion.

§ 10.3.3 IF CONTRACTOR IMPORTS HAZARDOUS MATERIALS ONTO THE PROJECT SITE, THEN CONTRACTOR HEREBY INDEMNIFIES AND HOLDS HARMLESS THE OWNER, ITS CONSULTANTS, TRUSTEES, OFFICERS, AGENTS AND EMPLOYEES, AGAINST ANY CLAIMS ARISING OUT OF OR RELATED TO SUCH IMPORTATION, INCLUDING BUT NOT LIMITED TO COSTS AND EXPENSES THE OWNER INCURS FOR REMEDIATION OF A MATERIAL OR SUBSTANCE THE CONTRACTOR BRINGS TO THE SITE, AS PROVIDED FOR IN SUBPARAGRAPH 3.18.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site.

§ 10.3.5 *[Intentionally deleted.]*

§ 10.3.6 *[Intentionally deleted.]*

§ 10.4 Emergencies

(Paragraph deleted)

§ 10.4.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss.

§ 10.4.2 The performance of the foregoing services by the Contractor shall not relieve the subcontractors of their responsibility for the safety of persons and property and for compliance with all federal, state and local statutes, rules, regulations and orders of any governmental authority applicable to the conduct of the Work.

§ 10.5 ASBESTOS OR ASBESTOS-CONTAINING MATERIALS

§ 10.5.1 Contractor shall submit to the Architect a written certification addressed to the Owner that all materials used in the construction of this Project contain less than 0.10% by weight of asbestos and for which it can be demonstrated that, under reasonably foreseeable job site conditions, will not release asbestos fibers in excess of 0.1 fibers per cubic

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centimeter. The written certification shall further state that, should asbestos fibers be found at this Project in concentrations greater than 0.1 fibers per cubic centimeter, then Contractor shall be responsible for determining which materials contain asbestos fibers and shall take all necessary corrective action to remove those materials from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor.

§ 10.5.2 Final Payment shall not be made until this written certification has been received.

§ 10.6 LEAD-FREE MATERIAL IN POTABLE WATER SYSTEM

§ 10.6.1 Prior to payment of retainage and final payment, the Contractor and each subcontractor involved with the potable water system shall furnish a written certification that the potable water system is "lead-free".

§ 10.6.2 The written certification shall further state that should lead be found in the potable water system built under this Project, then Contractor shall be responsible for determining which materials contain lead and shall take all necessary corrective action to remove lead from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor.

§ 10.7 HAZARDOUS MATERIALS CERTIFICATION

The Contractor shall provide written certification that no materials used in the Work contain lead or asbestos materials in them in excess of amounts allowed by federal, state or local standards, laws, codes, rules and regulations; the Federal Environmental Protection Agency (EPA) standards; and/or the Federal Occupational Safety and Health Administration (OSHA) standards, whichever is most restrictive. The Contractor shall provide this written certification as part of submittals under the Section in the Project Manual related to Contract Closeout.

ARTICLE 11 INSURANCE AND BONDS

§ 11.0.1 No Work will be commenced, and no equipment or materials can be shipped, until all requirements of this Article have been satisfied, satisfactory evidence of insurance has been provided, and all insurance is in full force and effect. Contractor shall notify Owner and Architect in writing of any proposed nonconformity with these requirements, and shall notify Owner and Architect in writing of any insurance changes which occur during the terms required under the Contract Documents. Any deviation from these requirements can only be approved by Owner's Board of Trustees. Any nonconformity may be grounds for termination or modification of the Contract. To the extent that Contractor is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Contractor shall provide written notice to Owner's Board of Trustees. Said lack of insurance may then be grounds for termination or modification of this Agreement.

§ 11.0.2 Satisfactory evidence of insurance required by this Article shall be provided to Owner and Architect not later than five business days after execution of the Contract by Owner. Satisfactory evidence shall include copies of all required insurance policies, declarations, and endorsements themselves. In addition, Contractor shall also provide a duly-executed ACORD Form 25 Certificate of Liability Insurance naming Owner as a certificate holder and additional insured (except as noted in Section 11.0.4) and attaching all endorsements required herein. The Contractor shall furnish Owner all insurance amendments, renewals, notices, cancellations, and additional endorsements, as they are provided to Contractor.

§ 11.0.3 All insurance required herein shall be obtained from a company licensed to do business in the State of Texas by the Texas Department of Insurance, and shall be underwritten by a company rated not less than "A-" X in A.M. Best's Key Rating Guide, Property-Casualty, according to the latest posted ratings available on A.M. Best's website, www.ambest.com, and that permits waivers of subrogation.

§ 11.0.4 All insurance required herein shall name the Owner, its officers, employees, representatives, or agents, as an additional insured, except Contractor's Worker's Compensation insurance.

§ 11.0.5 All insurance required herein shall, by endorsement, be primary and non-contributory insurance with respect to the Owner, its officers, employees, representatives, or agents. All insurance shall be written on an occurrence basis, if available, and shall contain a waiver of subrogation in favor of Owner as provided for in Section 11.3.

§ 11.0.6 Any failure of Contractor to comply with the reporting provisions of the policies shall not affect the coverage

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provided to the Owner, its officers, employees, representatives, or agents.

§ 11.0.7 All workers on the Project must be covered by the required insurance policies of the Contractor or a Subcontractor.

§ 11.0.8 Nothing contained in this Article shall limit or waive Contractor's legal or contractual responsibilities to Owner or others.

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor and the Contractor's Subcontractors shall purchase and maintain such insurance as will protect them and the Owner from claims that may arise out of, or result from, the Contractor's operations under the Contract, whether such operations be by Contractor or by any Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, at a minimum, of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this Section 11.1 in the Agreement, or elsewhere in the Contract Documents. Such insurance shall include the following:

- .1 Claims under workers' compensation, disability benefit, and other similar employee benefit acts that are applicable to the Work to be performed, including private entities performing work at the site, and exempt from the coverage on account of number of employees or occupation, which entities shall maintain voluntary compensation coverage at the same limits specified for mandatory coverage for the duration of the Project (see Exhibit A);
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person, or property damage arising out of ownership, maintenance, or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations;
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under the Contract Documents, including under Section 3.18; and
- .9 Claims for damages to the Work itself, through builder's risk insurance, pursuant to AIA 101-2017, Exhibit A.

§ 11.1.2 [*Intentionally deleted.*]

§ 11.1.2.1 The Contractor shall furnish separate payment and performance bonds covering faithful performance of the Contract and payment of obligations arising thereunder, each bond to be in a total amount equal to 100% of the Contract Sum or Guaranteed Maximum Price, if the Project is a Construction Manager at Risk project, whichever is applicable. Provided, however, no limitation herein shall limit Contractor's liability under the Contract Documents. Except as provided below, such bond shall be furnished to Owner before any work begins and not later than five business days after execution of the Contract by Owner. (If the Guaranteed Maximum Price is not known at the time that a Construction Manager at Risk contract is awarded, then the sum of the payment and performance bonds must each be in an amount equal to the Project budget. The Construction Manager at Risk shall deliver the bonds not later than the tenth day after the date the Construction Manager at Risk executes the Contract, unless the Construction Manager at Risk furnished a bid bond or other financial security acceptable to the Owner to the District to ensure that the Construction Manager will furnish the required payment and performance bonds when the Guaranteed Maximum

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Price is established.) All bonds shall be issued by a surety company licensed, listed and authorized to issue bonds in the State of Texas by the Texas Department of Insurance, and shall fully comply with Texas Insurance Code Section 3503.001 *et seq.* and Texas Government Code Chapter 2253, or their successors. The surety company shall have a rating of not less than "A-" X according to the latest posted ratings on the A.M. Best website, www.ambest.com. The surety company shall provide, if requested, information on bonding capacity and other projects under coverage and shall provide proof to establish adequate financial capacity for this Project. Should the bond amount be in excess of ten percent (10%) of the surety company's capital and surplus, then the surety company issuing the bond shall certify that the surety company has acquired reinsurance, in a form and amount acceptable to the Owner, to reinsure the portion of the risk that exceeds ten percent (10%) of the surety company's capital and surplus with one or more reinsurers who are duly authorized and admitted to do business in Texas and that amount reinsured by a reinsurer does not exceed ten percent (10%) of the reinsurer's capital and surplus. Contractor shall immediately notify the Owner and Architect in writing if there is any change in: the rating; insolvency or receivership in any State; bankruptcy; right to do business in the State; or status of Contractor's sureties at any time until Final Completion.

§ 11.1.2.2 The Contractor shall deliver copies of the required bonds to the Owner and Architect not later than five business days after execution of the Contract by Owner. All bonds will be reviewed by the Architect for compliance with the Contract Documents. In the event that the Architect has any questions concerning the sufficiency of the bonds, the bonds will be referred to the Owner or the Owner's Representative with Architect's recommendation.

§ 11.1.2.3 All bonds shall be originals. The Contractor shall require the attorney-in-fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the power-of-attorney. The name, address, and telephone number of a contact person for the bonding company shall be provided.

§ 11.1.2.4 Bonds shall guarantee the faithful performance of all of the covenants, stipulations, and agreements of the Contract. Bonds shall be signed by an agent, resident in the State of Texas. If at any time during the continuance of the Contract, the Owner determines that the Contractor is unable to complete the Work in accordance with the Contract Documents, any of the Contractor's bonds become insufficient, the surety becomes insolvent, or the surety's rating drops below the required level, then the Owner shall have the right to require from the Contractor additional and sufficient sureties or other security acceptable to the Owner, which the Contractor shall furnish to the satisfaction of the Owner within ten (10) days after notice to do so. These contractual remedies are in addition to all remedies available by law. In default thereof, all payment or money due to the Contractor may be withheld until the Contractor provides additional surety or security.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor knows or should know of an impending or actual cancellation of any insurance required by the Contract Documents, the Contractor shall provide written notice to the Owner of such impending or actual cancellation. Upon receipt of written notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of written notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage. At least 30 calendar days prior to the date of expiration of any policy required by Section 11.1, Contractor shall provide Owner written notice of the impending expiration.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall be responsible for purchasing and maintaining property and casualty insurance no later than the date of Substantial Completion and such date of Owner responsibility shall be documented in the Certificate of Substantial Completion. If Owner occupies or uses any completed or partially-completed portion of the Work at any stage, then such occupancy or use must be consented to by the insurer and authorized by public authorities having jurisdiction over the Work. To the extent of overlap between Owner's property insurance and Contractor's builder's risk insurance, if any, Contractor's builder's risk shall be primary and non-contributory.

§ 11.2.2 Partial occupancy or use shall not commence until the insurance company providing this insurance has consented in writing, by endorsement or otherwise. Owner and Contractor shall take reasonable steps to obtain such

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consent and shall take no action without written mutual consent that would cause cancellation, lapse, or reduction of this insurance.

§ 11.2.3 [Intentionally deleted.]

§ 11.3 Waivers of Subrogation

§ 11.3.1 All insurance required herein shall contain a waiver of subrogation in favor of Owner on all claims arising out of the Project. The policies shall provide such waivers of subrogation. The Contractor shall require similar written waivers in favor of the Owner, from the subcontractors and sub-subcontractors. The policies of insurance purchased and maintained by Contractor pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation.

§ 11.3.2 The Owner, as fiduciary, shall have power to adjust and settle any loss arising out of the Work with insurers, regardless of the purchaser of the insurance policy. The Contractor upon receipt of proceeds shall, as a fiduciary, pay all subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements shall require subcontractors to make payment to their sub-subcontractors in similar manner. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor with the insurance proceeds upon issuance of a Notice to Proceed from the Owner.

§ 11.3.3 Partial occupancy or use shall not commence until the insurance company providing this insurance has consented in writing, by endorsement or otherwise. Owner and Contractor shall take reasonable steps to obtain such consent and shall take no action without written mutual consent that would cause cancellation, lapse, or reduction of this insurance.

(Paragraphs deleted)

§ 11.4 Loss of Use and Business Interruption Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor and Architect of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor and Architect shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor and/or the Architect do not object, the Owner shall settle the loss and the Contractor and Architect shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor and/or Architect timely object to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's or Owner's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect or Owner, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

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§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or Work failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.1.1 The Owner may make emergency repairs to the Work or take such other measures necessary under the circumstances, if the Contractor does not respond within 24 hours of a written notice by Owner of defect or nonconforming Work. Contractor shall be responsible to Owner for this cost if the reason for the repairs is attributable to the Contractor. If payments then or thereafter due to the Contractor are not sufficient to cover such costs, then the Contractor shall pay the difference to the Owner on demand.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such written notice promptly after discovery of the condition. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of written notice from the Owner or Architect, the Owner may correct the Work as provided in 12.2.2.1.1. Nothing contained in this Section 12.2 is intended to limit or modify any obligations under the law or under the Contract Documents, including any warranty obligations, expressed or implied.

§ 12.2.2.1.1 If the Contractor fails to perform the corrective Work, then Owner may perform corrective Work, at Contractor's cost. If Owner performs corrective Work, then Owner may also remove nonconforming Work and store the salvageable materials or equipment at Contractor's expense. If the Contractor does not pay all costs incurred by Owner within ten (10) days after written notice, then Owner may, upon ten (10) additional days' written notice, sell the removed materials and equipment in accordance with Owner's policies, and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, then the Contractor shall pay the difference to the Owner.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner, but only as to the corrected Work.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction by the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for

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correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.2.6 Contractor shall replace, repair, or restore any parts of the Project or furniture, fixtures, equipment, or other items placed therein (whether by Owner or any other party) that are destroyed or damaged by any such parts of the Work that do not conform to the requirements of the Contract Documents or by defects in the Work.

§ 12.2.7 The provisions of this Section 12.2 apply to Work done by Subcontractors of the Contractor as well as Work done directly by employees of the Contractor. The provision for this Section 12.2.7 shall not apply to corrective work attributable solely to the acts or omissions of any separate contractor of Owner (unless Contractor is acting in such capacities). The cost to Contractor of performing any of its obligations under this Section 12.2.7 to the extent not covered by insurance shall be borne by Contractor.

§ 12.2.8 If, however, Owner and Contractor deem it inexpedient to require the correction of Work damaged or not done in accordance with the Contract Documents, then an equitable deduction from the Contract Sum shall be made by written agreement between Contractor and Owner. Until such settlement, Owner may withhold such sums as Owner deems just and reasonable from moneys, if any, due Contractor. The settlement shall not be unreasonably delayed by the Owner and the amount of money withheld shall be based on estimated actual cost of the correction to Owner.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the laws of State of Texas, and any litigation shall be conducted in state district court. Mandatory and exclusive venue for any disputes shall be in the county in which the Project is located.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract, in whole or in part, without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The invalidity of any part or provision of the Contract Documents shall not impair or affect in any manner whatsoever the validity, enforceability, or effect of the remainder of the Contract Documents.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner or Architect shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made at appropriate times as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals which shall be included

in the Cost of the Work. Provided, however, per Texas Government Code Chapter 2269, Owner shall bear all costs of construction materials engineering, testing and inspection services, and the verification testing services necessary for acceptance of the facility by the Owner. The Contractor shall give the Architect timely written notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Owner shall provide or contract for such additional testing, inspection, or approval. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense. Architect, Owner and Contractor shall cooperate for the timely scheduling of such tests and inspections.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including, but not limited to, those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect, with a copy to the Owner.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Undisputed payments overdue and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate as provided by Texas Government Code Section 2251.025. Any such payment shall be deemed overdue on the thirty-first day after Owner received Architect's invoice or Contractor's completed Application for Payment for the Architect, whichever is later, if Owner's Board of Trustees meets more than once per month. Any such payment shall be deemed overdue on the forty-sixth day after Owner receives Architect's invoice or Contractor's Certificate for Payment from the Architect, if Owner's Board of Trustees meets once a month or less frequently. No interest shall be due on sums properly retained by Owner, except as provided by law, or on disputed sums unpaid by Owner.

§ 13.6 EQUAL OPPORTUNITY IN EMPLOYMENT

§ 13.6.1 The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, disability, sex, or national origin, or any class otherwise protected by District policy or law. The Contractor agrees to post in conspicuous places, available to employees and applicants, notices setting forth the Contractor's nondiscrimination policies.

§ 13.6.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, age, disability, sex, national origin, or any class otherwise protected by District policy or law.

§ 13.7 RECORDS

§ 13.7.1 Contractor shall at all times through the date of Final Completion, maintain Job Records, including, but not limited to, invoices, Construction Documents, payment records, payroll records, daily reports, diaries, logs, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, other financial data and job meeting minutes applicable to the Project, in a manner which maintains the integrity of the documents. Job Records must be retained by Contractor for at least twelve (12) years after the date of Final Completion of the Project. Within 10 days of Owner's request, Contractor shall make such Job Records available for inspection, copying and auditing by the Owner, Architect or their respective representatives, at Owner's central office.

§ 13.7.2 If Contractor is a Construction Manager at Risk, then Contractor shall also maintain, in accordance with the provisions of Section 13.7.1, the following: subcontract files, including proposals of successful and unsuccessful

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bidders, bid recaps and subcontractor payments; original estimates; estimating work sheets; general ledger entries detailing cash and trade discounts received; insurance rebates and dividends; and any other supporting evidence deemed necessary by the Owner to substantiate charges related to the Contract.

§ 13.7.3 Contractor shall keep a full and detailed financial accounting system and shall exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control systems shall be satisfactory to the Owner and shall be subject to the provisions of Section 13.7.1.

§ 13.7.4 Contractor shall keep all Contract Documents related to the Project, subject to the provisions of Section 13.79.1, provided, however, Contractor shall not destroy said documents until Contractor has confirmed with Owner in writing that Owner has obtained a copy of all as-built drawings.

§ 13.7.5 In the event that an audit by the Owner reveals any errors/overpayments by the Owner, then the Contractor shall refund to the Owner the full amount of such overpayments within thirty (30) days of such audit findings, or the Owner, at its option, reserves the right to deduct such amounts owed to the Owner from any payments due to the Contractor.

§ 13.8 PROPRIETARY INTERESTS AND CONFIDENTIAL INFORMATION

§ 13.8.1 Neither Architect nor Contractor shall use the image or likeness of Owner's Project or Owner's official logo or emblem and any other trademark, service mark, or copyrighted or otherwise protected information of Owner, without Owner's prior written consent. Contractor and Architect shall not have any authority to advertise or claim that Owner endorses Architect or Contractor's services, without Owner's prior written consent.

§ 13.8.2 Neither Architect nor Contractor shall disclose any confidential information of Owner which comes into the possession of Architect or Contractor at any time during the Project, including but not limited to: pending real estate purchases, exchange, lease, or value; information related to litigation; the location and deployment of security devices; security access codes; student likenesses; student record information; employee information; or any other information deemed confidential by law.

§ 13.8.3 The parties acknowledge that, as a public entity in the State of Texas, Owner is subject to, and must comply with, the provisions of the Texas Public Information Act, Texas Government Code Section 552.001, *et seq.*, and the Texas Open Meetings Act, Texas Government Code, Section 551.001, *et seq.*

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of ninety (90) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped; or
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment of undisputed sums due on an approved Certificate for Payment within the time stated in the Contract Documents.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, then, after the applicable time period the Contractor may, upon ten (10) days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination.

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§ 14.1.4 If the Work is stopped for a period of 90 (ninety) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon twenty (20) additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or Suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or Suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents;
- .5 fails to furnish the Owner, upon written request, with assurances satisfactory to the Owner, evidencing the Contractor's ability to complete the Work in compliance with all the requirements of the Contract Documents;
- .6 engages in serious or repeated worker misconduct in violation of Article 3.3.2;
- .7 engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies; or
- .8 fails to proceed continuously and diligently with the construction and completion of the Work, except as permitted under the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and subject to any prior rights of the surety, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished. Any further payment shall be limited to amounts earned to the date of termination.

§ 14.2.4 If the costs of finishing the Work, including compensation for the Architects' services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, exceed the unpaid balance of the Contract Sum or Guaranteed Maximum Price, (if the Project is a Construction Manager at Risk project), then the Contractor and/or its Surety shall pay the difference to the Owner. The amount to be paid to the Owner shall be certified by Architect upon application. The obligation for payment shall survive termination of the Contract.

§ 14.2.5 The parties hereby agree that: 1) if an order for relief is entered on behalf of the Contractor, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Contractor makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; or 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Contractor's performance of the Contract Documents. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Contractor or its successor in interest adequate assurance of future performance in accordance with the terms and conditions of the Contract Documents. Failure to comply with such

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request within ten (10) days of delivery of the request shall entitle Owner to terminate the Contract and to the accompanying rights set forth in Subparagraphs 14.2.1 through 14.2.6. In all events, pending receipt of adequate assurance of performance and actual performance in accordance with the Contract Documents, Owner shall be entitled to proceed with the Work with Owner's own forces or with other Contractors on a time and material or other appropriate basis, the cost of which will be charged against the Contract Sum.

§ 14.2.6 As required by Texas Government Code Chapter 2253, if a Performance Bond has been furnished and the Contractor is declared by the Owner to be in default under the Contract, then the Surety shall promptly perform the Work, in full accordance with the plans, specifications and Contract Documents. Unless otherwise agreed in writing between the Surety and the Owner, the Surety shall complete the Work by the Surety entering into a Contract acceptable to Owner, with a Contractor acceptable to Owner, and shall obtain new Payment and Performance Bonds as required by law.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum, Guaranteed Maximum Price, and Contract Time may be adjusted, by mutual written agreement, for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Furthermore, if this Contract is a multi-year contract funded through Owner's current general funds that are not bond funds, then the Owner's Board of Trustees has the right to not appropriate adequate monies for the next fiscal year and to terminate this Contract at the end of each fiscal year during the term of the Contract, without the Owner incurring any further liability to Contractor as a result of such termination.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination. Such payment shall not cause the Contract Sum, or Guaranteed Maximum Price, if the Project is a Construction Manager at Risk Project, to be exceeded. Such payment shall not include overhead and profit for Work not executed.

§ 14.4.4 Upon determination by a Court of competent jurisdiction that termination of the Contractor pursuant to Section 14.2 was wrongful, such termination will be deemed converted to a termination for convenience pursuant to Section 14.4, and Contractor's remedy for wrongful termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Section 14.4.

ARTICLE 15 CLAIMS AND DISPUTES OF CONTRACTOR § 15.1 Claims

(Paragraph deleted)

§ 15.1.1 Definition

A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of additional compensation under the Contract Documents, interpretation of the Contract Document terms, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor.

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This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

(Paragraphs deleted)

§ 15.1.2 Time Limits on Litigation

The Owner and Contractor shall commence all litigation whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the dispute resolution method selected in the Agreement and within the period specified by applicable law, but in the case of the Owner, not more than 8 years after the date of Final Completion of the Work, unless extended in accordance with Texas Civil Practice and Remedies Code Section 16.009. The Owner and Contractor waive all causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by the Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Architect. Claims by Contractor under this Section 15.1.3.1 must be initiated within 21 calendar days after occurrence of the event giving rise to such Claim or within 21 calendar days after the Contractor first knew or should have known the condition giving rise to the Claim, whichever is earlier. Claims must be initiated by written notice titled "Notice of Claim" ("Notice") and sent to the Architect and Owner's designated representatives. The Notice shall clearly set out the specific matter of complaint, and the impact which may occur or have occurred as a result thereof, to the extent that the impact can be assessed at the time of the Notice. If the impact cannot be assessed as of the date of the Notice, then the Notice shall be amended at the earliest date that is reasonably possible. It is imperative that Owner receive timely specific Notice of any potential problem identified by Contractor in order that the problem can be mitigated or resolved promptly. Claims not filed as required by this Section shall be waived.

§ 15.1.3.2 Claims by the Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7, as amended, and Article 14, as amended, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make undisputed payments for Work performed in accordance with the Contract Documents.

§ 15.1.4.2 *[Intentionally deleted.]*

§ 15.1.5 Claims for Additional Cost or An Increase in the Contract Sum or Guaranteed Maximum Price

If the Contractor wishes to make a Claim for additional cost or an increase in the Contract Sum or Guaranteed Maximum Price, written notice as provided in Section 15.1.3 shall be given to Owner and Architect. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. The Architect will promptly investigate such Claim and report findings and a recommended resolution in writing to the Owner and Contractor. If the Claim is approved by Owner's Board of Trustees, or Owner's representative if provided for herein, then Contractor shall proceed with the execution of the Work that is the subject matter of the Claim. If the Claim is rejected by the Owner, then Contractor may pursue alternative dispute resolution as provided for in the Contract Documents.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and prevented the execution of major items of work on normal working days. "Adverse weather conditions" means unusually severe weather which is beyond the normal weather recorded and expected for the locality and/or the season or seasons of the year. The Contractor shall anticipate and include in the construction

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schedule rain days due to adverse weather conditions. A rain day is defined as a day when rainfall exceeds one-half (.5) inch during a 24-hour period.

§ 15.1.6.3 Time extensions may be granted for rain days in any month when the cumulative number of rain days during that month exceeds the number scheduled, provided that the rainfall prevented the execution of major items of work on normal working days. No day will be counted as a rain day when substantial Contractor forces are able to perform Work on the Project for more than fifty percent (50%) of the usual workday or when the stage of the Work on the Project is not adversely impacted. The number of rain days shown in the above schedule for the first and last months of the Contract will be prorated in determining the total number of rain days expected during the period of the Contract. No delays or extensions shall be granted for mud conditions.

§ 15.1.6.4 No extension of time shall be made to the Contractor because of hindrances or delays from any cause which is the fault of Contractor or Contractor's Subcontractors or under Contractor's control. Claims for extension of time may only be considered because of delays caused by adverse weather conditions, or because of hindrances or delays which are the fault of Owner and/or under Owner's control, but only to the extent that Substantial Completion of the Project is adjusted beyond the original Substantial Completion date. Only claims for extension of time shall be considered because of hindrances or delays not the fault of either Contractor or Owner, but only to the extent that Substantial Completion of the Project exceeds the Substantial Completion date established for the Work. Board approval shall be required for any extension of time. No damages shall be paid for delays. Contractor shall only be entitled to time extensions per the terms of the Contract Documents.

§ 15.1.6.5 Requests for time extension shall be submitted on a monthly basis and shall specify the time delay, the cause of the delay, and the responsible party for the delay, whether Contractor, Owner, rain day, or other. No claims for damages for delay shall be made by Contractor. Any claim not submitted under the terms of this Section shall be waived.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor waives all Claims against Owner for consequential damages arising out of or relating to this *(Paragraphs deleted)* Contract, including, but not limited to, any amount owed as compensation for the increased cost to perform the Work as a direct result of Owner-caused delays or acceleration.

Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Resolution of Claims and Disputes

§ 15.2.1 Claims by the Contractor against the Owner, including those alleging an error or omission by the Architect, shall be referred initially to the Architect for written recommendation. An initial recommendation by the Architect shall be required as a condition precedent to mediation or litigation of all Claims by the Contractor arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Architect with no recommendation having been rendered by the Architect.

§ 15.2.2 The Architect shall review Claims and within ten days of the receipt of the Claim take one of the following actions: (1) request additional supporting data from the Contractor, or (2) make a written recommendation to the Owner, with a copy to the Contractor.

§ 15.2.3 In evaluating Claims, Architect may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in making a written recommendation.

§ 15.2.4 If the Architect requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Architect when the response or supporting data will be furnished, or (3) advise the Architect that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Architect will either reject or approve the Claim in whole or in part.

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§ 15.2.5 Following receipt of the Architect’s written recommendation regarding a Claim, the Owner and Contractor shall attempt to reach agreement as to any adjustment to the Contract Sum or Guaranteed Maximum Price and/or Contract Time. If no agreement can be reached, then either party may request mediation of the dispute pursuant to Section 15.3.

§ 15.2.6 Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor’s default, the Architect or the Owner may, but is not obligated to, notify the surety and request the surety’s assistance in resolving the controversy.

§ 15.2.6.1 [Intentionally deleted.]

§ 15.2.7 [Intentionally deleted.]

§ 15.2.8 [Intentionally deleted.]

§ 15.3 Alternative Dispute Resolution

§ 15.3.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived under the terms of the Contract Documents, shall, after written recommendation by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation at the request of either party. Owner and Contractor expressly agree that mediation shall be a condition precedent to the initiation of any litigation arising out of such Claims. Claims for injunctive relief shall not be subject to this Section.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation. Requests for mediation shall be filed in writing with the other party to the Contract. Mediation shall be subject to and in accordance with Chapter 154 of the Texas Civil Practice & Remedies Code. Mediation shall be conducted by a mutually-agreed-upon mediator. In the event that the parties are unable to agree on a mediator, then the parties shall jointly request the appointment of a neutral mediator by a District Judge in the county in which the Project is located.

§ 15.3.3 The parties shall share the mediator’s fee equally and, if any filing fee is required, shall share said fee equally. Mediation shall be held within the county where the Owner’s main administrative office is located, unless another location is mutually agreed upon by the parties. Agreements reached in mediation shall be reduced to writing, considered for approval by the Owner’s Board of Trustees, signed by the parties if approved by the Board of Trustees, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

§ 15.3.4 Any claim not resolved in mediation shall be subject to litigation pursuant to Section 13.1.

§ 15.4 No Arbitration

§ 15.4.1 Notwithstanding anything to the contrary in the Contract Documents or in any document forming a part hereof, there shall be NO mandatory arbitration for any dispute arising hereunder.

§ 15.5 Contractor stipulates that Owner is a political subdivision of the State of Texas, and, as such, enjoys immunities from suit and liability provided by the Constitution and laws of the State of Texas. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 15.6 In any adjudication under this Agreement, reasonable and necessary attorneys’ fees may be awarded to the prevailing party.

EXECUTED this ___ day of June, 2024.

OWNER:

CONTRACTOR:

Dr. Scott Muri
Title: Superintendent
Ector County Independent School District

By (Printed Name) Chad Henthorn
Title: Chief Executive Officer

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Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Anthony Sorola, Associate Superintendent of Athletics, Human Capital, and Operations

SUBJECT: **DISCUSSION OF AND REQUEST FOR APPROVAL OF MASTER AGREEMENT FOR PROGRAM MANAGEMENT SERVICES FOR BOND PROGRAM CONSTRUCTION PROJECTS BETWEEN ECISD AND GALLAGHER CONSTRUCTION COMPANY, LP.**

DATE: June 18, 2024

It is the recommendation of the administration that the Board of Trustees approve the Master Agreement for Program Management Services for Bond Program Construction Projects between ECISD and Gallagher Construction Company, LP.

Administrative Recommendation:

Approval of Master Agreement for Program Management Services for Bond Program Construction Projects between ECISD and Gallagher Construction Company, LP.

**MASTER AGREEMENT FOR PROGRAM MANAGEMENT SERVICES
BETWEEN**

ECTOR COUNTY ISD AND

GALLAGHER CONSTRUCTION COMPANY, LP

Dated: June 18, 2024

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SCHEDULE OF EXHIBITS

EXHIBIT “A” - SCHEDULE OF COMPENSATION

EXHIBIT “B” - UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

EXHIBIT “C” UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

MASTER AGREEMENT FOR PROGRAM MANAGEMENT SERVICES

This **MASTER AGREEMENT FOR PROGRAM MANAGEMENT SERVICES** (the "Agreement") is made and entered into by and between:

Ector County Independent School District, a Texas public school district, with its central administrative office located at 802 North Sam Houston Avenue, Odessa, TX 79761 ("Owner"), and Gallagher Construction Company, LP, a domestic limited partnership located at 3501 Token Drive, Suite 100, Richardson, Texas 75082 ("Program Manager").

This Agreement shall become effective on the date it is executed by the last party to execute it (the "Effective Date"). On and after the Effective Date, rights and obligations hereunder shall accrue only in connection with a Project covered by a Project Order ("Project Order") executed by the Owner and the Program Manager, and then, only to the extent thereof. While the Owner intends to authorize the Program Manager from time to time to perform project management services for the Owner pursuant to Project Orders, nothing herein shall require the Owner to assign any specific Project to the Program Manager. A listing of all Projects that may be assigned to the Program Manager are included in Exhibit A. The Owner's Capital Improvement Plan ("CIP") will be developed and incorporated at a later date. CIP will also be available for review on the Owner's website; provided, however, that the CIP is subject to modification by addition, deletion, or elimination, or revision at the Owner's sole discretion. The Owner reserves the right in its sole discretion to determine which Project assignments are appropriate to be performed by the Program Manager under this Agreement. Except as otherwise provided herein, Program Manager's Services in connection with a Project shall conclude one year following final completion of a Project covered by a Project Order unless otherwise provided in such Project Order or in an amendment thereto.

The term of this Agreement shall commence on the Effective Date and shall conclude on upon completion of the projects listed within this Agreement.

For and in consideration of the mutual promises, covenants and agreements set forth herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Owner and Program Manager agree as follows:

ARTICLE 1

DEFINITIONS

1.1 "Additional Services" means those services, duties, obligations and responsibilities set forth in Article 5 of this Agreement.

1.2 "Applicable Laws" means all laws, statutes, ordinances, codes, regulations, rules, orders and resolutions of all national, administrative, state, local, municipal, and other governing bodies, relating to or affecting a Project, including environmental, health, safety, building, and employment laws, and the Ector County ISD Board Policies.

1.3 "Basic Services" means all Services required of Program Manager by this Agreement, excepting only Additional Services.

1.4 "Change Order" means a written order to Program Manager executed by Owner in accordance with Article 8 of this Agreement authorizing and directing an addition to, deletion from, adjustment, revision, or a combination thereof, to the Services required of, or the compensation payable to, Program Manager.

1.5 "Construction Contract" means a contract between Owner and a Contractor for the performance of all or any portion of the Work for a Project, including all documents defined by such contract as "Contract Documents", all documents incorporated into such contract by reference, and all additional documents, if any, defined by such contract as constituting a part thereof.

1.6 "Construction Phase" means the phase of a Project commencing upon the completion of the Design Phase, or any particular phase thereof if Owner has approved staging of the design in phases, or the award of the first

Construction Contract for such Project, whichever occurs first, and ending upon Owner's execution of a Certificate of Final Completion for such Project. With respect to a Design/Build Project, "Construction Phase" means the phase of a Project commencing upon the completion of the Design Phase, or any particular phase thereof if Owner has approved staging of the design in phases, and ending upon Owner's execution of a Certificate of Final Completion for such Project.

1.7 "Contractor" means a person or entity, including, without limitation, general contractors, trade or specialty contractors, and construction managers, with whom Owner contracts for performance of all or part of the Work for a Project.

1.8 "Design Contract" means a contract between Owner and a Project Architect for design of a Project and performance of related services, and includes all documents incorporated into such contract by reference and all documents defined by such contract as constituting a part thereof.

1.9 "Design For Construction" means the complete and final design and construction documents, including, without limitation, plans, drawings, specifications, manuals, related materials, and all addenda, changes, and modifications thereto, prepared or provided by a Project Architect pursuant to a Design Contract for use in constructing a Project, or any particular phase thereof if Owner has approved staging of the design in phases, performing the Work for such Project, or such phase if applicable, and rendering such Project, or such phase if applicable, fully operational and usable for its intended purpose.

1.10 "Design Phase" means the phase of a Project commencing with the execution of a Design Contract for such Project, or Owner's authorization to the Project Architect to commence design services for such Project, whichever occurs first, and ending upon completion of the Design for Construction for such Project, or any particular phase thereof if Owner has approved staging of the design in phases.

1.11 "Execution Plan" means the manual of processes and procedures adopted and utilized by Owner to monitor projects.

1.12 "Final Completion" means the completion of all Work required by, and in strict compliance with, the Construction Contract for a Project, including start-up, testing, permitting, and all preparations necessary to open and operate such Project for its intended purpose.

1.13 "Including", "Includes", and their derivatives are not intended as terms of limitation, and shall be deemed in each instance to be followed by the phrase "without limitation."

1.14 "Owner's Representative" means the individual named by Owner, in writing, to act on Owner's behalf in the administration of this Agreement. The Owner's Representative is Superintendent Mr. Scott Carman, or designee.

1.15 "Preliminary Design" means all design documents constituting the preliminary design of a Project as required by and defined in the Design Contract for such Project.

1.16 "Project" means a city facility, school facility or other facility design and construction or renovation or addition undertaking.

1.17 "Project Architect" means a person or entity with whom the Owner contracts for design of a Project and performance of related services.

1.18 "Reimbursable Expenses" means, and shall be limited to, those items set forth in Exhibit "A", attached hereto.

1.19 "Services" means all the services, duties, obligations and responsibilities required of Program Manager pursuant to the terms of this Agreement.

1.20 "Subcontractor" means any person or entity hired by Program Manager to perform any portion of the Services.

1.21 "Substantial Completion" means that point at which, as certified in writing by the Project Architect, a Project is at a level of completion in strict compliance with the Construction Contract such that the Owner can enjoy beneficial use or occupancy, and can use or operate it in all respects, for its intended purpose.

1.22 "Value Engineering" means the detailed analysis of systems, equipment, materials, services, facilities, and supplies required by a Construction Contract for the purpose of achieving the desired and essential functions of Owner's Project at the lowest Life Cycle Cost consistent with required and necessary performance, reliability, quality and safety. "Life Cycle Cost" means the sum of all costs of a Project over its useful life, and includes the cost of design, construction, acquisition, operation, maintenance, and salvage/resale value.

1.23 "Work" means any and all labor, supervision, and work required by a Construction Contract to construct, test, certify, permit and render a Project, and every component thereof, operational and usable for its intended purpose.

ARTICLE 2

REPRESENTATIONS

2.1 Specific Representations. By executing this Agreement and undertaking to perform its services under a Project Order, Program Manager makes the following express representations to Owner upon which Owner may fully rely:

2.1.1 Program Manager is professionally qualified to act as Program Manager for the Project and has authorizations necessary to act as Program Manager for the Project and to perform the Services required hereunder.

2.1.2 Program Manager has become familiar with the local conditions under which the Project is to be implemented.

2.1.3 Program Manager has the skill, capability and experience, including sufficient qualified and competent personnel, to effectively, efficiently and timely perform the Services and manage the Project, and Program Manager will continuously furnish sufficient personnel to progress the Project and perform the Services in a timely and proper manner.

2.1.4 Program Manager shall comply with all Applicable Laws governing the performance of the Services.

2.1.5 Program Manager assumes full responsibility to Owner for the acts and omissions of its officers, employees, agents, Subcontractors, consultants, and others employed or retained by it in connection with the Project and performance of the Services.

2.1.6 Unless Program Manager is a licensed architect or professional engineer, Program Manager shall not engage in acts which constitute the practice of architecture and/or engineering, as defined by Texas law.

2.1.7 Program Manager shall maintain a working relationship with the Project Architect, Contractor, and Design Consultants on behalf of the Owner. However, the Program Manager will not be responsible for the Contractor's means, methods, sequences, procedures on safety practices, or security in connection with the Project, or for the adequacy or accuracy of the project design.

2.2 Enumerated Representations Not Exhaustive. Nothing contained in this Article 2 shall in any manner supersede, limit, or restrict any other duty, responsibility, representation, or warranty created by this Agreement or by law.

ARTICLE 3

PROGRAM MANAGER'S PERFORMANCE: GENERAL PROVISIONS

3.1 Standard Of Care. Program Manager shall perform all Services at a level, and to a standard of care, consistent with the standards and quality prevailing among recognized Project and construction management firms of superior knowledge, skill and experience engaged in Projects of similar size and complexity. Program Manager shall carry out and complete all Services in an efficient, thorough, timely and economical manner, and in strict accordance with the terms of this Agreement, the Contract Documents, the Project Manual, and the Construction Documents.

3.2 Owner's Agent. Program Manager shall be Owner's agent in performing the Services, shall promote and protect Owner's interests, and shall have a fiduciary obligation of undivided loyalty and trust to Owner in connection therewith. Unless otherwise directed by Owner in writing, the Program Manager shall act as Owner's agent to the Project Architect and Contractor.

3.3 Time Of The Essence. Program Manager acknowledges that time is of the essence to the Project and in the performance of Program Manager's Services. Program Manager shall perform and complete the Services in a timely manner in accordance with the Project Schedule.

3.4 Compliance With Applicable Laws. Without assuming the responsibility of the Project Architect for the accuracy, adequacy, and completeness of design, and without assuming the responsibility of the Contractor, Program Manager shall reasonably ensure that the Project is designed and constructed in a manner to meet the requirements of the Contract Documents, the Project Manual, the Construction Documents, and all Applicable Laws. Program Manager shall immediately report to Owner in writing any known actual or potential violation of any Applicable Law and any known deviation of the Contract Documents, the Project Manual, and the Construction Manual, by any person or entity, including, without limitation, the Project Architect and the Contractor.

3.5 Duty To Correct Defective Services. Program Manager shall promptly correct any errors, omissions, and deficiencies in its performance of the Services, at its own cost and without additional compensation or reimbursement, and Program Manager shall not be compensated for performing any Services necessitated by its failure to perform in accordance with this Agreement.

3.6 Program Manager's Performance Not Discharged By Duties Of Others. Program Manager's Services under this Agreement shall not be changed, altered, discharged, released or satisfied by any duty, obligation or responsibility of a Project Architect or a Contractor. Program Manager is not a third-party beneficiary of any agreement by and between Owner and a Project Architect or Contractor. It is expressly acknowledged and agreed that Program Manager's Services to Owner are independent of, and are not diminished by, any duties owed to Owner by any Project Architect or Contractor.

3.7 Cooperation With Project Architect. Program Manager shall cooperate fully with the Project Architect with respect to the duties, obligations, responsibilities and services of such Project Architect, including those set forth in any applicable Design Contract. Such duty of cooperation shall include, as the Project Architect's needs may require, furnishing information and documents to, meeting with, and consulting with the Project Architect with respect to inspection, testing, and analysis of any Work.

3.8 Program Manager Not To Perform Design Or Construction. Neither Program Manager nor any subsidiary, affiliate, or joint venture partner of Program Manager shall perform, or enter into any agreement to perform, any design or construction work in connection with the Project.

3.9 Fiduciary Duty. Program Manager represents the Owner in a fiduciary capacity and owes to Owner fiduciary duties.

ARTICLE 4

PROGRAM MANAGER'S BASIC SERVICES

4.1 Generally. During the planning, design and construction of the Project, and at all times relevant thereto, without assuming the responsibility of the Project Architect for the accuracy, adequacy and completeness of design, and without assuming the responsibility of the Contractor, Program Manager shall perform the Basic Services set forth in, or reasonably implied by or inferable from, this Article 4. Unless Owner directs otherwise in writing, and except as otherwise provided in this Agreement, Program Manager shall perform such Basic Services until construction of the Project is complete. Program Manager agrees to and accepts this scope of Basic Services.

4.2 Consultation with Owner. Program Manager shall consult in detail with Owner in order to:

- (a) Review Owner's existing facilities as applicable to the scope the Project;
- (b) Learn Owner's needs and objectives;
- (c) Review Owner's design, construction, budgetary, cash flow, and operational requirements; and
- (d) In consultation with Owner and Architect, review educational specifications for the facilities built and/or renovated to determine whether the improvements will be appropriate for the anticipated educational programs at each facility.

4.3 Review Applicable Laws, Program Manuals, and Specifications. Program Manager shall review all Applicable Laws, Program Manuals, Contract Documents, Construction Documents, and specifications, and notify Owner's Representative in writing of any areas that it becomes aware that shall affect the time or cost of the Project.

4.4 Owner's Execution Plan. Program Manager shall review and comply with Owner's Execution Plan.

4.5 Monthly Reports. Program Manager shall prepare and submit to Owner's Representative on the tenth day of each month a written report summarizing the progress of the Project during the preceding month (the "Monthly Report"). Such Monthly Report shall set forth, in detail reasonably satisfactory to Owner, significant facts and events occurring during the preceding month, such that Owner will be fully informed of the progress of the Project. The Monthly Report shall describe any problems or obstacles that may adversely affect the budget or schedule of the Project or the quality of design and construction work being performed. The Monthly Report shall include, without limitation, the following:

- (a) An update of the Project Schedule, which shall identify any delays to the Project, as well as the cause and extent of such delays, and shall make recommendations for eliminating or minimizing such delays and the effects thereof;
- (b) Updates of the Project budget and cash flow analysis, subdivided into design and construction phases for the Project, showing costs incurred in the preceding month as well as month-by-month projection and forecast of future anticipated costs and payments by Owner;
- (c) A summary of all change orders approved for the Project during the preceding month, which summary shall indicate the cost and cause of each such change order, and shall give the cumulative total costs of all change orders approved to date for the Project, expressed in gross dollars and as a percentage of the Construction Contract price;
- (d) A summary of all requests or claims for additional compensation or time extensions received from the Project Architect or Contractor.

4.6 Attendance At Meetings. Program Manager shall attend such meetings as Owner's Representative requests, and shall attend any and all other meetings as necessary to protect the interests of the Project and the Owner. In addition to all meetings Program Manager is otherwise required to attend pursuant to this Agreement,

Program Manager shall schedule and attend meetings with the Architect, the Contractor and others that Program Manager, in the exercise of its professional judgment, deems necessary or in the interests of the Project or Owner. Program Manager shall give Owner not less than forty-eight (48) hours prior written notice of any meeting scheduled by Program Manager. Owner shall give Program Manager not less than forty-eight (48) hours prior notice of any meeting scheduled by Owner.

4.6.1 At every meeting Program Manager attends, Program Manager shall keep written minutes of the meeting and distribute typed copies of same to Owner and all in attendance at such meeting, as well as anyone else Program Manager believes, in the exercise of its professional judgment, should review such minutes

4.7 Communications And Reporting. All communications from Program Manager to Owner, excepting only ordinary and routine communications, shall be in writing and shall be directed to the Owner's Representative with copies to such other persons as may be deemed from time to time. Program Manager shall establish working relationships and communication procedures among the project team members, including the Owner, Project Architect, Contractor, and subcontractors.

4.8 Document Control. Program Manager shall be responsible for the Owner's document control for the Project, including reviewing all documents received by Owner and Program Manager, copying and distribution of documents as necessary, and storage and retrieval of documents. Program Manager shall confirm that the Owner receives all documents required to be submitted to the Owner and that the Owner acquires copies of all documents that it is in the Owner's interest to receive.

4.9 Maintain Construction Contract Documents. Program Manager shall maintain on behalf of, and for use by Owner a complete and current set of all documents comprising or incorporated in the Construction Contract for the Project.

4.10 Project Reviews With Project Architect. Upon execution of a Design Contract, Program Manager shall meet with the Project Architect to review the Project Analysis, the design criteria, the Project budget, the design schedule, the Project Schedule, Applicable Laws affecting the Project, and channels for communications and reporting.

4.10.1 Twice Monthly Meetings With Project Architect. During the Design Phase of the Project, Program Manager shall meet not less than twice every month with the Project Architect to review the progress of design work and identify any delays or potential delays to the design schedule, deviation from Owner's design and budget criteria, Identify Potential Cost Savings. During and after such meetings, Program Manager shall study and evaluate the construction materials, building systems, and equipment called for in the design for the purpose of identifying any potential savings that may be achieved through Value Engineering, commonality or similarity of materials and equipment, procurement by Owner, bulk purchasing, and economies of scale. Program Manager shall also evaluate the design for the purpose of achieving maximum efficiency and cost-effectiveness in construction and installation, future expandability of the Project, Life Cycle Costs, ease of maintenance, and economy of operation.

4.11 Review Cost-Saving Recommendations With Owner. Program Manager shall consult with Owner and Architect regarding all potential cost-saving measures recommended or identified by Program Manager. Upon Owner's written authorization, Program Manager shall implement, or direct implementation of, such cost-saving measures as Owner approves.

4.12 Review And Certification Of Project Architect's Pay Requests. Program Manager shall review each pay request submitted by a Project Architect and, within seven (7) days of receiving same, certify to Owner the amount that, in Program Manager's professional judgment, is due such Project Architect pursuant to the applicable Design Contract. Such certification by Program Manager shall be a representation to Owner that the amount certified is currently owed to such Project Architect under the terms of the Design Contract and that the Program Manager knows of no reason why any portion of such amount should be withheld.

4.13 Review Of Design For Construction. Program Manager shall review the Design for Construction for the Project upon submission by the Project Architect for compliance with Project requirements and compliance with Owner's design criteria and budget.

4.14 Services During Bidding. During the bidding or proposing for construction of the Project, Program Manager shall perform the following services:

- 4.14.1 In consultation with Owner and, if applicable, the Project Architect, prepare all necessary bid and proposal forms and documents. Project Architect and/or Engineer shall prepare construction documents required in bid documents.
- 4.14.2 In consultation with Owner, prepare, give public notice of bids or proposals, and publish advertisements for bids or proposals for construction. In scheduling bid or proposal dates, Program Manager shall monitor the local construction market, noting in particular the bid or proposal dates of other significant construction projects. To the fullest extent possible consistent with Owner's scheduling needs, Program Manager shall avoid setting bid or proposal dates for the Project which conflict with bid or proposal dates for other construction projects in the area, it being Owner's desire to have the maximum possible interest in bidding or proposing on its Project.
- 4.14.3 As necessary, or upon request by Owner, stimulate bidder or offeror interest by direct contact with qualified contractors and construction managers and design/builders. Such contact with bidders and offerors shall be, at all times, ethical and prudent, and shall not compromise the integrity of the Owner and/or the bidding process.
- 4.14.4 Monitor and expedite the bidding or proposal process by tracking recipients of bid or proposal documents, obtaining and facilitating answers to bidders' or offerors' questions and furnishing necessary information, and facilitating the issuance of addenda.
- 4.14.5 Assist the Project Architect in preparing addenda in consultation with the Owner, as necessary. Review all addenda for accuracy and completeness, compliance with Project criteria, constructability and impact on the construction schedule and cost, and report any significant cost or schedule impacts and any problems and areas of concern to Owner prior to issuance of addenda.
- 4.14.6 Analyze all bids or proposals received for completeness, responsiveness, price and compliance with bid bond requirements.
- 4.14.7 Investigate the background of all bidders or offerors, including such bidders' or offerors' experience in the local construction market, experience in construction, and if applicable, design, of educational facilities, qualifications to construct, and if applicable, design, the Project being bid or proposed, financial and bond capacity, and claims history.
- 4.14.8 In consultation with the Owner, evaluate bids or proposals and make recommendations regarding selection of the Contractor.
- 4.14.9 Ensure that all bid specifications shall include the required statement regarding workers' compensation, as set forth in Board Policy CV (Exhibit) and 28 Texas Administrative Code 110.110@.

4.15 Reducing Bid or Proposal Amounts.

- 4.15.1 In the case of competitive bidding, in the event that the lowest responsible bid for construction of a Project exceeds the construction portion of the Project budget, Owner may exercise its right to reject all bids, revise the construction documents, and rebid the project; and Program Manager shall not attempt to negotiate for a change in the scope of work and price.

In the case of competitive sealed proposals, Program Manager may, in consultation with the Owner, negotiate with the selected offeror to negotiate a contract and may discuss options for a scope or time modification and any price change associated with the modification. If such negotiations are unsatisfactory to the Owner, the Program Manager and Owner shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected. If such negotiations are unsuccessful in lowering the bid or proposal to an amount acceptable to Owner, Program Manager shall, in cooperation with the Project Architect if applicable, advise Owner on means of Value Engineering or lowering the cost of construction and, if applicable, design. Program Manager shall assist in implementing any measure decided upon by Owner to achieve such savings.

4.16 Program Manager shall make public the evaluations of bids and/or proposals after each contract is awarded, in accordance with Texas law.

4.17 Program Manager shall comply in all respects with all applicable laws and Board Policies relating to the procurement of construction services and goods, and professional services relating to construction, including Texas Education Code Chapter 44, Texas Government Code Chapters 2267-2269, and Owner's Board Policies CV (Legal) and (Local), CVA (Legal) and (Local), CVB (Legal) and (Local), CVC (Legal), CVD (Legal, CVE (Legal), and CVF (Legal). PROGRAM MANAGER SHALL HOLD HARMLESS, INDEMNIFY, AND DEFEND OWNER AGAINST ANY CLAIMS, CAUSES OF ACTION, PENALTIES, JUDGMENTS, AND VIOLATIONS RELATING TO AND/OR CAUSED BY PROGRAM MANAGER'S FAILURE TO COMPLY WITH ANY APPLICABLE LAWS, POLICIES, AND REGULATIONS RELATING TO THE PROCUREMENT OF CONSTRUCTION SERVICES, PROFESSIONAL SERVICES, AND GOODS IN CONNECTION WITH THIS AGREEMENT.

4.18 Notice To Proceed. Program Manager shall prepare and, after obtaining Owner's written approval, issue the notice to proceed to the Contractor.

4.19 Conduct Preconstruction Conference. Program Manager shall conduct a preconstruction conference with the Project Architect and the Contractor for the purpose of reviewing any special requirements related to site access, safety, coordination with school activities, communications and reporting procedures, scheduling, submittals, pay requests, change orders, inspections and any other matters relevant to the performance of the Program Manager, Project Architect, and Contractor.

4.20 Procurement Of Special Services. Program Manager shall, as Owner's agent, procure, coordinate and supervise the services of surveyors, testing laboratories, and other special consultants required for the Project. Program Manager shall monitor all test results and notify Owner and Project Architect in writing of any known or observed problems.

4.21 Perform Owner's Obligations Under Construction Contract. Unless otherwise directed by Owner, Program Manager shall coordinate with Owner to schedule, coordinate, assist with and facilitate the performance of all of Owner's duties under the Construction Contract. In addition, and without limiting the generality of the foregoing, and any provision hereof to the contrary notwithstanding, the Program Manager shall perform, as Basic Services, all of the duties of the "Owner's Representative." Program Manager shall coordinate with Owner to schedule and coordinate the procurement, delivery and security of any materials, furnishings and equipment to be furnished to the Project or any Project by Owner.

4.22 Permits And Licenses. Program Manager shall confirm that all permits and licenses that are required by contract or law are obtained. Program Manager shall not permit the Contractor to perform any Work requiring a permit or license unless the permit or license has been obtained.

4.23 Contractor's Bonds And Insurance Requirements. Program Manager shall review all insurance certificates and policies, payment bonds and performance bonds submitted by the Contractor for compliance with requirements of the Construction Contract, and Program Manager shall maintain on file copies of same. Program Manager shall verify to Owner in writing Contractor compliance with such requirements. Program Manager shall not permit any Contractor to commence or continue with performance of the Work or Construction Contract if such Contractor is not in compliance with all insurance and bond requirements, but shall immediately notify Owner in writing of such noncompliance.

4.24 Project Administration. Program Manager shall provide a management team to administer the Projects as an agent of Owner. Program Manager shall promptly notify Owner in writing of any known material breach of a Construction Contract by a Contractor and shall take all steps necessary to remedy such breach and to minimize or eliminate the effect of such breach on the timely and proper completion of the Work. Program Manager shall coordinate communication between all parties involved in construction of the Project. Program Manager shall monitor all construction activities and, through Owner's Representative and, where applicable, coordinate same with activities and functions and other needs of the Owner.

4.25 Contract Administration By Project Architect. Program Manager shall monitor the performance of Construction Contract administration duties by the Project Architect, including, without limitation, the timeliness of the Project Architect's review of submittals, change orders and Contractor pay requests. Owner may require Program Manager to perform, as an Additional Service unless set forth elsewhere in this Agreement as a Basic Service, all contract administration duties that would otherwise be performed by the Project Architect. Program Manager shall not draft or amend Contract Documents. Program Manager shall use contract forms and documents drafted and/or amended by Owner, in consultation with Owner's legal counsel.

4.26 Review of The Work. Without assuming the responsibility of the Project Architect for the accuracy, adequacy and completeness of design, and without assuming the responsibility of the Contractor, Program Manager shall review construction Work to determine the quality and quantity of the Work performed in comparison to the requirements of the Construction Contract, it being the intention of the parties and a requirement of the Construction Contract that all Work be performed in strict accordance with the requirements thereof. Within two (2) days after any such inspection, Program Manager shall report to Owner in writing any deficient or nonconforming Work and any facts and circumstances observed or discovered that are detrimental or potentially detrimental to the Project or Owner's interests.

4.27 Administration of Construction Contract. Without assuming the responsibility of the Project Architect for the accuracy, adequacy and completeness of design, and without assuming the responsibility of the Contractor, Program Manager shall perform additional Construction Contract administration duties, beyond those required as Basic Services, including, without limitation, regular reviews of the Work, review of submittals, evaluation of requests for change orders, review and certification of Contractor pay requests, certification of Substantial Completion and Final Completion, and such other contract administration duties as Owner may request.

4.28 Job Site Meetings. Program Manager shall schedule and conduct regular job- site meetings with the Project Architect, Contractor, and, as necessary, major subcontractors. Such meetings shall be scheduled and held with such frequency as may be appropriate for the Project but in no event less frequent than monthly. The purpose of such meetings shall be to address all matters and issues relating to quality, quantity and progress of the Work. Program Manager shall prepare and deliver to Owner and all in attendance at such meeting detailed minutes of same.

4.29 Review Of RFI's. Program Manager shall review all requests for information and interpretation submitted by Contractors within ten (10) days after receipt thereof, or more expeditiously as necessary to maintain compliance with Owner's contract(s) with Contractors. Where appropriate, Program Manager shall provide information to Contractors on behalf of Owner. With respect to any interpretation, rendered by the Project Architect, of a requirement of the Construction Contract, Program Manager shall carefully review such interpretation and shall immediately advise Owner in writing if Program Manager disagrees with any such interpretation. Program Manager shall maintain a log of all requests for information and interpretation, which shall record the date of receipt of, a description of, and date of response to, each request.

4.30 Review Of Contractor's Pay Requests. Program Manager shall review each Contractor pay request upon receipt from the Project Architect, and shall certify to Owner the amount that, in Program Manager's professional judgment, is due the Contractor. Program Manager shall notify Owner in writing of any disagreement with the Project Architect's certification and any reasons for such disagreement. Program Manager's certification of any Contractor pay request shall be a representation to Owner that the amount certified is currently owed to the Contractor under the terms of the Construction Contract and that Program Manager knows of no reason why any portion of such amount should be withheld.

4.31 Change Order Review. Program Manager shall review all change order requests or proposals submitted, and, within ten (10) days after receipt thereof, or more expeditiously if necessary to avoid delay to the construction schedule, shall, after consultation with the Project Architect, advise Owner in writing as to the cause, necessity, purpose, advantages and disadvantages, likely cost, likely effect on the construction schedule and the Project Schedule and all other impacts and problems that may result from the issuance or non-issuance of a change order. Program Manager shall advise Owner of any reasonable alternatives to the change order request or proposal, and shall recommend a course of action. Program Manager shall negotiate, on Owner's behalf, cost increases and decreases and time extensions resulting from each change order with the party requesting the change order. Program Manager shall maintain a log of all change order requests and proposals, the amounts of same, all actions taken thereon, and the dates thereof.

4.32 Testing And Startup. Program Manager shall observe the testing and startup of all utilities, systems and equipment and shall report the results of same to Owner in writing. Program Manager shall deliver to Owner all written material such as operations and maintenance manuals for all equipment, and all warranties and guaranties required by the Construction Contract.

4.33 As-Built Drawings. Program Manager shall review all as-built drawings and shall certify to Owner that all as-built drawings are adequate and complete based on the Program Manager's investigation, knowledge and belief.

4.34 Owner Training. Program Manager shall arrange for training of Owner's personnel in the maintenance and operation of all equipment and systems.

4.35 Punchlists And Defective Work. Program Manager shall assist Owner in the preparation and enforcement of all punchlists and other itemizations of defective or incomplete Work. Program Manager shall report to Owner on a weekly basis the Contractor's progress in curing and completing punchlist Work.

4.36 Certificates Of Completion. Program Manager shall review all certificates of Substantial Completion and Final Completion issued by the Project Architect. Program Manager shall immediately notify Owner in writing if Program Manager disagrees with any such certificate and shall state the reasons for such disagreement.

4.37 Warranty Administration. Program Manager shall issue and monitor warranty claims, and schedule one-year inspections with the Project Architect and contractors.

4.38 Claims Assistance. Program Manager shall review and evaluate any and all claims for additional compensation or time extensions submitted by the Contractor or the Project Architect. Program Manager shall consult with Owner with respect to the nature, basis and merits of such claims. If requested by Owner in writing, Program Manager shall negotiate such claims with the claimant on Owner's behalf.

ARTICLE 5

ADDITIONAL SERVICES

5.1 Generally. During the planning, design and construction of the Project, and at all times relevant thereto, Program Manager shall perform the services, duties, obligations and responsibilities set forth in, or reasonably implied by or inferable from, this Article 5, if authorized and directed by written Change Order executed by Owner pursuant to Article 8 herein. Program Manager agrees to and accepts this scope of Additional Services.

5.2 Changes In The Project. Program Manager shall perform such services as may reasonably be required due to significant changes made in the Project after execution of a Project Order for the Project.

5.3 Owner's Insurance. Program Manager shall, in cooperation with Owner's risk management representative, determine Owner's insurance needs for the Project and assist Owner as needed in procuring necessary coverage.

5.4 Submission Of Documents To Reviewing Agencies. Program Manager shall ensure that all required submissions of documents to reviewing agencies, both governmental and otherwise, are complete, timely and in compliance with the requirements of such agencies.

5.5 Negotiation Of Construction Contract. Program Manager shall assist Owner in negotiating the Construction Contract with the Contractor selected by Owner. Nothing herein shall be construed to indicate that the Program Manager shall be engaged in the practice of law, or the giving of legal advice. Program Manager shall not draft or amend Contract Documents. Program Manager shall use contract forms and documents drafted and/or amended by Owner, in consultation with Owner's legal counsel.

5.6 Review of The Work. Without assuming the responsibility of the Project Architect for the accuracy, adequacy and completeness of design, and without assuming the responsibility of the Contractor, Program Manager shall review construction Work to determine the quality and quantity of the Work performed in comparison to the requirements of the Construction Contract, it being the intention of the parties and a requirement of the Construction Contract that all Work be performed in strict accordance with the requirements thereof. Within two (2) days after any such inspection, Program Manager shall report to Owner in writing any deficient or nonconforming Work and any facts and circumstances observed or discovered that are detrimental or potentially detrimental to the Project or Owner's interests.

5.7 Administration of Construction Contract. Without assuming the responsibility of the Project Architect for the accuracy, adequacy and completeness of design, and without assuming the responsibility of the Contractor, Program Manager shall perform additional Construction Contract administration duties, beyond those required as Basic Services, including, without limitation, regular reviews of the Work, review of submittals, evaluation of requests for change orders, review and certification of Contractor pay requests, certification of Substantial Completion and Final Completion, and such other contract administration duties as Owner may request.

5.8 Owner Requested Services. Program Manager shall perform such other services related to the Project and the intent of this Agreement as Owner may reasonably request.

ARTICLE 6

OWNER'S OBLIGATIONS OTHER THAN PAYMENT

6.1 Provide Project Information. Owner shall provide Program Manager with adequate information regarding Owner's requirements for the Project, including any desired or required schedules and any budgetary requirements.

6.2 Owner's Representative. The Owner's Representative is Dr. Scott Muri, Superintendent, or his designee. Such individual shall serve as Owner's Representative for the duration of the Project unless replaced by Owner, with written notice of such replacement furnished to Program Manager. Owner's Board of Trustees and Owner's Representative are the only representatives of Owner entitled to act on behalf of Owner with respect to this Agreement and the requirements hereof. However, Owner's Representative does not have authority to waive or modify any requirement, condition or term of this Agreement.

6.3 Review Of Documents. Owner shall review any documents submitted by Program Manager requiring Owner's decision and shall render any required decisions pertaining thereto.

6.4 Access To The Site And The Work. Owner shall provide Program Manager access to the Project site and to the Work as necessary for Program Manager to perform this Agreement.

6.4.1 Criminal Background Checks. Program Manager affirms that it has complied or will comply prior to the performance of any work for/at the Owner, with the requirements regarding criminal background checks SB9 as provided under Texas Education Code, Chapter 22. This law requires the Program Manager to obtain all criminal history record information on all persons to whom the law applies. This process includes fingerprinting in order to submit the individuals to a national check.

Program Manager certifies to the Owner that it has received all criminal history record information on all persons servicing this agreement and none of the persons has a disqualifying criminal history. If Program Manager receives information that a person fulfilling this agreement subsequently has a reported disqualifying criminal history, Program Manager will immediately remove the person from duties with the Owner and notify the Owner in writing within 3 business days.

Program Manager will provide the Owner with the name and any other requested information of person(s) fulfilling this agreement so that the Owner may obtain criminal history record information on the person(s). If the Owner objects to the assignment of a person on the basis of the person's criminal history record information, Program Manager agrees to discontinue using that person(s) to provide services under this contract. Program Manager also certifies that it has obtained certifications from its subcontractors (if applicable) of compliance with Education Code, Chapter 22. Noncompliance or misrepresentation regarding this certification may be grounds for agreement termination.

6.5 Cooperation To Secure Permits. Owner shall cooperate with Program Manager in securing any necessary licenses, permits, certificates, approvals or other necessary authorizations for the construction and occupancy of the Project.

6.6 Timely Performance. Owner shall perform those obligations set forth in the Agreement in a reasonably expeditious fashion so as to permit the orderly progress of Program Manager's Services and the Project.

6.7 Owner's Reviews, Inspections, Approvals, And Payments. Owner's review, inspection, or approval of any Preliminary Design, Design for Construction, Construction Contract, any other design or construction documents, any Work, any schedules, or any documents prepared or submitted by Program Manager shall be solely for the purpose of determining whether same are generally consistent with the Project and Owner's requirements. No review, inspection, or approval by Owner of such Designs, Work or documents shall relieve Program Manager of its responsibility for the strict performance of its obligations under this Agreement or for the accuracy, adequacy, fitness, suitability, or coordination of its Services and work product. Payment by Owner pursuant to this Agreement shall not constitute a waiver of any of Owner's rights under this Agreement or at law.

6.8 Program Manager's Notice Of Nonperformance. If Program Manager believes that Owner is failing, or has failed, to perform properly and timely any of Owner's obligations hereunder, Program Manager shall promptly furnish written notice of same to Owner in accordance with Article 15.1.

ARTICLE 7

PAYMENTS TO PROGRAM MANAGER

7.1 Basis Of Compensation. Owner shall pay, and Program Manager shall accept, as full and complete compensation for Program Manager's assumption and performance of all of the Basic Services required herein, the sum of (a) the Program Manager's Fee, for the period of time and to the extent of the utilization of personnel set forth in a Project Order and (b) the Program Manager's Reimbursable Expenses as allowed by Exhibit "A", and reasonably incurred in furtherance of the Project.

7.2 Taxes And Fees. The Program Manager's compensation shall be deemed to include, and Program Manager shall be responsible for payment of, all federal, state and local taxes, assessments and fees related to this Agreement and the performance thereof which are enacted and effective as of the date of this Contract.

7.3 Program Manager's Invoice. On or before the fifth day of each month after Program Manager commences performance of its services pursuant to a Project Order, Program Manager shall submit to Owner an invoice for the Services performed by Program Manager through the last day of the preceding month. Payments are due and payable thirty (30) days from the Owner's receipt of the Program Manager's invoice. Amounts unpaid thirty (30) days after the date of Owner's receipt shall bear interest at the rate determined in accordance with the Texas Prompt Payment Act, Chapter 2251 *et seq.*, Texas Government Code. Invoices shall be in such form and with such supporting data as Owner may require. In its Invoice, Program Manager may request payment for that portion of the Program Manager's compensation earned and not previously paid through the pay period covered by the

Invoice. Copies of paid receipts for expenses for which Program Manager seeks payment shall be furnished as part of the Invoice if required by the Owner. Unless otherwise directed by Owner's Representative, Invoices shall be submitted to Owner's Representative for approval.

7.4 Certification Relating To Invoices. Each Invoice shall bear the signature of Program Manager's Project Coordinator, which signature shall constitute Program Manager's representation to Owner that the Services indicated in the Invoice have progressed to the level indicated and have been properly and timely performed as required herein, that the Reimbursable Expenses included in the Invoice have been actually, reasonably and properly incurred, that all obligations of Program Manager covered by prior Invoices have been paid in full, and that, to the best of Program Manager's knowledge, information and informed belief, the amount requested is currently due and owing, there being no reason known to Program Manager that payment of any portion thereof should be withheld. Submission of Program Manager's Invoice for final payment shall further constitute Program Manager's representation to Owner that, upon receipt from Owner of the amount requested, all obligations of Program Manager to others incurred in connection with the Project, will be paid in full. In the event that Owner becomes credibly informed that any of the foregoing representations by Program Manager are wholly or partially inaccurate, Owner may withhold payment of sums then or in the future otherwise due to Program Manager until the inaccuracy, and the cause thereof, is corrected to Owner's reasonable satisfaction.

7.5 Payment Of Invoices. Owner shall make payment to Program Manager of all sums properly invoiced and approved under the provisions of this Article 7, less any withheld amount authorized by this Agreement and less any amounts owed by Program Manager to Owner, in accordance with the Texas Prompt Payment Act, Texas Government Code Chapter 2251, provided that the Invoice is in proper order, is supported by all required documentation, and that all conditions precedent to payment have been satisfied; otherwise, the time for payment of such Invoices shall be extended by the amount of time required to cure such deficiencies.

7.6 Withholding Of Payment. Any provision hereof to the contrary notwithstanding, Owner shall not be obligated to make a payment or payments to Program Manager otherwise due or thereafter to become due, to the extent that any one or more of the following conditions exists:

- (a) Program Manager's Invoice is not in the form or supported by the documentation required by this Agreement;
- (b) Program Manager is in default of any of its obligations hereunder or under the applicable Project Order;
- (c) Any part of such payment is attributable to performance by Program Manager which Owner adjudges to be deficient or not conforming with the requirements of this Agreement or the applicable Project Order; provided, however, that payment shall be made as to the part thereof attributable to performance which is rendered in accordance with this Agreement or the applicable Project Order and is not deficient, subject to other provisions hereof;
- (d) Program Manager has failed to make payments promptly to its Subcontractors, consultants, employees, or others performing Services in connection with the Project in accordance with any agreement therefore, or any person has filed a claim that Program Manager has failed to make payments due to such person;
- (e) Any person has asserted a claim against Owner in whole or in part on account of alleged acts or omissions of Program Manager; or
- (f) A bona fide dispute exists, as described in Texas Government Code § 2251.002.

In the event that any of the foregoing conditions exist, Owner shall be entitled to retain from any sum then due or thereafter to become due an amount sufficient in the judgment of Owner to satisfy, discharge, and defend against such claims, to make good any losses, prospective losses, costs, attorney's fees, and other expenses which may result from the existence of such conditions.

7.7 Disputed Invoice. In the event Owner's Representative disagrees with or questions all or any portion of any Invoice, the amount due to Program Manager, or the sufficiency of the information and documentation submitted by

Program Manager, Owner's Representative shall notify Program Manager in writing and Owner shall pay the undisputed parts of such Invoice, consistent with the Texas Prompt Payment Act.

7.8 Conditions Precedent To Payment. In addition to all other conditions contained in this Agreement, it shall be a condition precedent to any payment otherwise due hereunder that: (a) Program Manager not be in material breach of this Agreement or the applicable Project Order; (b) Program Manager have submitted all documents required by this Agreement or the applicable Project Order; and (c) Program Manager have submitted its Invoices and backup documentation in the time, form, and manner required by this Agreement.

ARTICLE 8

CHANGE ORDERS

8.1 Owner's Authority To Order Changes. Owner may, without affecting the validity or enforceability of this Agreement or the applicable Project Order, direct changes in the Services, including additions, deletions, modifications, and revisions thereto, and direct Program Manager to perform Additional Services. Program Manager shall promptly proceed with the performance of the Services in accordance with Owner's directions, and failure to agree on the specific terms of a Change Order shall not be cause for Program Manager's failure to perform the Services or to proceed with any directed change, so long as Owner and Program Manager agree that there has been a change to the Services.

8.1.1 Basis Of Compensation Increase. Any increase to Program Manager's compensation pursuant to a Change Order shall be made in accordance with the rates set forth in Exhibit "A".

8.2 Reductions In Program Manager's Compensation. If the Program Manager's Services are reduced in time or scope, the Program Manager's compensation shall be equitably adjusted by Change Order.

8.3 Payment. Payment for Services performed pursuant to a Change Order shall be requested and made in accordance with, and shall be subject to, the provisions of Article 7.

8.4 Change Orders Final. The parties' agreement on any Change Order shall constitute a final settlement on all items covered by such Change Order, as well as all issues and matters related in any way to the circumstances forming the basis for the Change Order.

ARTICLE 9

PERSONNEL, SUBCONTRACTORS AND CONSULTANTS

9.1 Approval Of Program Manager's Subcontractors Required/Required Subcontract Terms. Program Manager shall not subcontract to any person or entity (including affiliates of Program Manager) any part of the Services to be rendered by Program Manager under this Agreement without Owner's prior written approval. Program Manager shall provide Owner with such information as Owner deems necessary in order to determine whether to approve any such subcontracts. All such subcontracts shall afford Program Manager rights against its Subcontractors and consultants which correspond to the rights afforded to Owner against Program Manager herein, including, without limitation, those rights of contract suspension, termination, replacement of unsatisfactory personnel at Owner's request, and documentation of Subcontractor and consultant charges as set forth herein.

9.2 Program Manager Responsible For Acts Of Subcontractors. Should Program Manager subcontract all or any part of the Services required under this Agreement, such subcontracting of the Services shall not relieve Program Manager from any liability or obligation under this Agreement or under any Applicable Law, and Program Manager shall be responsible for any and all acts, defaults, omissions and negligence of its Subcontractors and consultants. It is expressly agreed that no relationship of agency, employment, contract, obligation or otherwise shall be created between Owner and any Subcontractor or consultant of Program Manager, and a provision to this effect shall be inserted into all agreements between Program Manager and its Subcontractors and consultants.

9.3 Program Manager's Personnel. Program Manager shall assign only qualified personnel to perform the Services and any functions related to the Project.

9.3.1 Chief Executive. Upon forty-eight (48) hours' notice from Owner, Program Manager's Chief Executive Officer, or equal, shall be made available for consultation with Owner as Owner, in its sole discretion, deems necessary.

9.3.2 Prior Approval By Owner. Program Manager shall not assign any personnel to the Project without first obtaining written approval of such assignment from Owner's Representative. In order to permit Owner to evaluate Program Manager's prospective personnel assignments, Program Manager shall make all such personnel available for interviews by Owner and Owner's staff, at Owner's place of business, and shall furnish resumes of prospective personnel. At the time of execution of this Agreement, the individuals listed in Exhibit "A" have been approved by Owner. Subsequent personnel assignments shall be added to Exhibit "A", upon approval in accordance with this paragraph 9.3. Individuals listed in Exhibit "A", shall not be changed unless: (a) Owner exercises its rights set forth in paragraph 9.4, (b) Owner gives prior written authorization for such change, or (c) any such individual ceases to be employed or retained by Program Manager or any parent, affiliate, subsidiary, or joint venture partner thereof, in which case immediate written notice of same shall be given to Owner.

9.4 Removal Of Personnel And Subcontractors. If at any time during the course of the Project, Owner reasonably determines that the performance or conduct of any member of Program Manager's staff or any of Program Manager's Subcontractors or consultants working on the Project is unsatisfactory, Owner's Representative may require Program Manager to remove such staff member or terminate such Subcontractor or consultant from the Project immediately and replace the staff member or Subcontractor or consultant, subject to approval in accordance with paragraph 9.3, at no cost or penalty to Owner for delays or inefficiencies the change may cause.

9.5 Employment Taxes. Program Manager shall be responsible for payment of all unemployment compensation, social security, and other similar taxes and benefits covering its employees.

9.6 State of Texas Legislative Senate Bill No.1, Section 44.034, Notification of Criminal History, Subsection (a), states: "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The District must compensate the person or business entity for services performed before the termination of the contract".

This Notice Is Not Required of a Publicly Held Corporation.,

Check the appropriate box and sign in the space provided below.

- My firm is a Publicly Held Corporation; therefore, this reporting requirement is not applicable.
- My firm is not owned or operated by anyone who has been convicted of a felony.
- My firm is owned or operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon: _____

Brief Details of Conviction(s); _____

ARTICLE 10

PROJECT DOCUMENTS

10.1 Use And Ownership. All Preliminary Designs, Designs for Construction, schedules and schedule updates, Construction Contracts, including, but not limited to, drawings, plans, specifications, and other documents or things pertaining to the Project are the sole property of Owner. Such drawings, specifications and other documents and things shall not be used by Program Manager for any purpose other than the design and construction of the Project unless Owner shall first agree otherwise in writing. PROGRAM MANAGER SHALL INDEMNIFY AND SAVE OWNER HARMLESS FROM ANY AND ALL LIABILITIES, COSTS, CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING OUT OF, OR RESULTING FROM, ANY UNAUTHORIZED USE OF SAID DOCUMENTS AND THINGS BY PROGRAM MANAGER. THIS DUTY OF INDEMNIFICATION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

10.2 Availability Of Project Records To Owner. All records, documents and things relating to the Project which are in the possession of Program Manager, including without limitation Program Manager's books and records relating to the Project, shall be made available to Owner, its designee, and any governmental authority for auditing, inspection and copying upon written request made by Owner. Such records also include, without limitation, all drawings, plans, specifications, Construction Contracts, Submittals, correspondence, minutes and notes of meetings, memoranda, audio or video tape recordings, computer-based files and storage instruments, and other writings or things which document the Project, its design, and its construction for a period of sixty (60) calendar days after Substantial Completion of each project.

10.3 Maintenance Of Project Records. Program Manager shall maintain and protect all Project-related documents, records and things for not less than twelve (12) years after Final Completion of the Project. Program Manager shall give Owner thirty (30) days written notice prior to disposal or destruction of any such documents, records and things.

ARTICLE 11

INDEMNITY

11.1 PROGRAM MANAGER SHALL INDEMNIFY AND HOLD HARMLESS OWNER FROM AND AGAINST ALL LIABILITY, CLAIMS, LOSSES, DAMAGES, COSTS, AND EXPENSES OF ANY NATURE OR KIND, INCLUDING ATTORNEYS' FEES AND ALL LITIGATION-RELATED EXPENSES, SUSTAINED OR INCURRED BY OWNER TO THE EXTENT ARISING OUT OF AND ATTRIBUTABLE TO THE NEGLIGENCE OR WRONGFUL SERVICES, OR BREACH OF THIS AGREEMENT BY PROGRAM MANAGER, OR NEGLIGENT ACTS AND OMISSIONS OF PROGRAM MANAGER, ITS SUBCONTRACTORS, EMPLOYEES, AGENTS, AND CONSULTANTS. THIS DUTY TO INDEMNIFY OWNER SHALL EXTEND TO, BUT NOT BE LIMITED TO, CLAIMS FOR BODILY INJURY (INCLUDING DEATH), FOR DAMAGE TO OR LOSS OF PROPERTY, AND FOR ENVIRONMENTAL DAMAGE AND LIABILITIES, INCURRED OR SUSTAINED BY OWNER OR ANY THIRD PERSON TO THE EXTENT RESULTING FROM AND ATTRIBUTABLE TO ANY BREACH OF CONTRACT, NEGLIGENT OR WRONGFUL ACTS OR OMISSIONS OF PROGRAM MANAGER, ITS EMPLOYEES, SUBCONTRACTORS, AGENTS, AND CONSULTANTS. THIS DUTY OF INDEMNIFICATION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE 12

INSURANCE

12.1 Coverage Required. Program Manager shall, throughout the duration of this Agreement, and for a period of one (1) year after final completion of each Project, maintain insurance coverage in the coverages and amounts set forth below, to protect Program Manager and Owner from claims arising out of Program Manager's services under this Agreement, written by insurers acceptable to Owner, and in a form acceptable for Owner. Owner shall have the right to require increased amounts of coverage if the scope of the work or potential liability substantially changes at any point during the course of Architect's provision of services and/or based upon changes in statutory laws, court decisions, or potential increase in exposure to loss. Such insurance shall be written on an occurrence

basis, if available, and on a claims-made basis, if occurrence basis insurance is not available. Program Manager shall be responsible for all deductibles. Insurance shall be obtained from companies licensed to do business in the State of Texas by the Texas Department of Insurance, having at least an "A" rating by A.M. Best.

12.1.1 **Workers' Compensation** to statutory limits.

12.1.2 **Employers Liability** - One Million dollars (\$1,000,000) per occurrence.

12.1.3 **Comprehensive General Liability**, with combined limit for bodily injury, sickness or disease, death, and property damage of not less than One Million dollars (\$1,000,000) per occurrence.

12.1.4 **Automobile Liability** covering all owned, non-owned or hired vehicles, with combined single limit of One Million dollars (\$1,000,000) per occurrence.

12.1.5 **Excess/Umbrella Liability** in excess of items 12.1.2, 12.1.3, and 12.1.4, above, in the amount of Five Million dollars (\$5,000,000) per occurrence.

12.1.6 **Professional Errors and Omissions** insurance, Five Million dollars (\$5,000,000) per occurrence with an aggregate limit of Seven Million dollars (\$7,000,000.00).

12.2 Owner As Additional Insured. Owner shall be included as an additional insured on the coverages for comprehensive general liability, automobile liability, and excess/umbrella liability, and shall be indicated as such on certificates of insurance required herein. The policies for general liability, automobile liability, and workers' compensation shall include a waiver of subrogation in favor of the Owner.

12.3 Certificates Of Insurance/Cancellation Notice. Not later than ten (10) days after execution of this Agreement, Program Manager shall furnish to Owner original signed certificates of insurance showing that the insurance required by this Article 12 is in force. Such certificates shall provide for thirty (30) days written notice to Owner prior to cancellation or material change in any insurance coverage or policy.

12.4 Subcontractor/Consultant Coverage. Unless expressly waived by Owner in writing, Program Manager shall permit no Subcontractor or consultant retained by Program Manager to enter upon any Project site or perform any Services unless such Subcontractor or consultant is and remains insured in accordance with the requirements of paragraphs 12.1, 12.2 and 12.3. PROGRAM MANAGER SHALL HOLD HARMLESS, INDEMNIFY, AND DEFEND OWNER FOR ANY LOSS OR DAMAGE SUFFERED BY OWNER AS A RESULT OF THE FAILURE OF ANY OF PROGRAM MANAGER'S SUBCONTRACTORS OR CONSULTANTS TO BE SO INSURED. THIS DUTY OF INDEMNIFICATION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE 13

SUSPENSION

13.1 Owner's Right To Suspend. Owner may for any reason whatsoever suspend, in whole or in part, the Project, performance of any Work, and performance of Program Manager's Services under this Agreement or an applicable Project Order. Owner shall give written notice of such suspension to Program Manager specifying when such suspension is to become effective and the scope thereof.

13.2 Ceasing Performance Upon Suspension. From and upon the effective date of any suspension ordered by Owner, Program Manager shall incur no further expense or obligations in connection with the suspended portion of the Project or the Services, and Program Manager shall cease performing Services under the applicable Project Order as directed by Owner. Program Manager shall also promptly suspend any of its open or outstanding contracts, subcontracts, or purchase orders related to the suspended portion of the Project or the Services.

13.3 Resumption Of Work After Suspension. If Owner lifts the suspension it shall do so in writing, and Program Manager shall resume performance of the Services required by this Agreement and an applicable Project Order

unless, prior to receiving the notice to resume the Services, Program Manager has exercised its right of termination as provided in Paragraph 14.8 herein.

13.4 Claim For Costs Of Suspension. Within forty-five (45) days after either the resumption of the suspended portion of the Project or Services or termination by Program Manager pursuant to paragraph 14.8, Program Manager shall submit an itemization of expense and time reasonably and necessarily expended as a result of the suspension, together with costs, pricing or other data required by Owner. Program Manager's failure to provide such itemized information within such forty-five (45) day time period shall constitute a waiver of any claim to compensation relating to the suspension of Program Manager's work under this Agreement and an applicable Project Order. Owner shall promptly review Program Manager's itemization and shall issue a Change Order providing for payment to Program Manager of such amounts as may be reasonably and necessarily due on account of the suspension, which amounts shall be limited to actual and direct costs resulting from the suspension, and shall not include lost profits or other consequential damages related to or resulting from the suspension.

ARTICLE 14

TERMINATION

14.1 Termination For Convenience. Owner may for any reason whatsoever terminate, in whole or in part, one or more Projects, this Agreement, or Program Manager's employment under this Agreement, for Owner's convenience. Owner shall give written notice of such termination to Program Manager specifying when termination becomes effective and the scope of the termination.

14.2 Ceasing Performance Upon Termination. Program Manager shall incur no further obligations in connection with the terminated portion of a Project or this Agreement and Program Manager shall cease performance of Services when and to the extent such termination becomes effective. In the event of termination under this paragraph, Program Manager shall promptly terminate outstanding contracts, subcontracts, and purchase orders related to the terminated portion of a Project, Program Manager's employment or this Agreement unless directed to do otherwise by Owner. Owner may direct Program Manager to assign Program Manager's right, title and interest under open or terminated contracts, purchase orders, or subcontracts to Owner or its designee. Unless directed otherwise by Owner, Program Manager shall settle the liabilities and claims arising out of the termination of the contracts, subcontracts, and purchase orders. Under no circumstances shall Program Manager permit the recovery of any damages under its contracts with Contractors, Subcontractors, or other vendors by reason of termination under paragraph 14.1. Only actual and direct costs incurred as a result of termination shall be permitted

14.3 Submission Of Termination Claim. In the event of termination for convenience, Program Manager shall, within ninety (90) days of such termination, submit a written termination claim to Owner specifying the amounts due because of the termination together with cost, pricing, and other supporting documentation or data required by Owner. Program Manager's failure to file a termination claim within such ninety (90) day period shall constitute a waiver of any claim to compensation relating to the termination. If a proper termination claim is submitted, then Owner shall pay Program Manager an amount derived in accordance with paragraph 14.4 herein.

14.4 Compensation For Termination For Convenience. As full compensation to Program Manager for any termination for convenience, Owner shall pay Program Manager the following amounts:

- (a) The value, based upon the provisions of Article 7 hereinabove, of Services performed and accepted under this Agreement up to the termination effective date;
- (b) Reasonable and necessary costs as supported by documentation submitted to Owner (i) incurred prior to termination in preparing to perform and in performing the terminated portion of this Agreement, and (ii) incurred in terminating Program Manager's performance; and
- (c) Reasonable and necessary costs as supported by documentation submitted to Owner of settling and paying claims arising out of the termination of contracts, subcontracts, and purchase orders pursuant to this Article 14.

The total sum to be paid under this paragraph 14.4, as properly adjusted and as reduced by the amount of payments otherwise made, shall in no event include duplication of payment. Notwithstanding anything to the contrary in this Agreement, any and all claims made by Program Manager pursuant to this Article 14 shall be supported by adequate documentation

14.5 Termination For Cause. If Program Manager refuses or fails to perform its Services and responsibilities under this Agreement in a timely manner, supply enough properly skilled personnel, make prompt payment to its Subcontractors or consultants, or comply with Applicable Laws, or if Program Manager is otherwise guilty of a material breach of this Agreement or any representations or warranty made herein, then Owner may, by written notice to Program Manager, and without prejudice to any other right or remedy, terminate the employment of Program Manager and take possession of all design documents, Construction Contracts, and all other Project-related documents and things in the possession of Program Manager, and finish the Project by whatever methods it deems expedient. Should this Agreement be terminated in accordance with this paragraph 14.5, the compensation due to the Program Manager shall be limited to compensation for services performed and Reimbursable Expenses incurred prior to notice of such termination.

14.6 Erroneous Termination For Cause. In the event the employment of Program Manager is terminated by Owner for cause and it is subsequently determined by a court or other tribunal of competent jurisdiction that such termination was, for any reason, without just or proper cause, then such termination shall thereupon be deemed a Termination for Convenience under paragraph 14.1 and the provisions of paragraph 14.4 regarding compensation shall apply.

14.7 Completion By Owner And Survival Of Obligations. Following any termination, whether for convenience or for cause and whether in whole or in part, Owner may complete the Project and the Services by whatever means Owner deems most expedient. Program Manager's obligations and all provisions of this Agreement and the applicable Project Order shall continue in full force and effect as to all Services performed prior to the effective date of the termination and as to that portion of the Project and Services not affected by the termination.

14.8 Termination By Program Manager. If one or more Project Orders are suspended for a period of more than sixty (60) consecutive days by governmental authority or by direction or neglect of Owner's Representative, and through no fault of Program Manager, or if Owner fails to pay Program Manager any undisputed amount due on any undisputed invoice within thirty (30) days after receipt of written notification from Program Manager that such payment is overdue, then Program Manager may, upon seven (7) days prior written notice to Owner, terminate its Services on the related Project.

ARTICLE 15

MISCELLANEOUS PROVISIONS

15.1 Notices. Any notice required to be given herein shall be deemed to have been given to the other party if (a) given by first class mail, registered air express mail, courier service, or hand delivery; or (b) by electronic mail, provided that such notice is also confirmed by first class mail, registered air express mail, courier service, or hand delivery, to the following addresses:

To Owner:

Dr. Scott Muri, Superintendent
Ector County ISD
802 N. Sam Houston Avenue
Odessa, TX 79761

To Program Manager:

Jeff Fisher, President
Gallagher Construction Company, LP
3501 Token Dr., Suite 100
Richardson, TX 75082

All notices shall be effective upon receipt.

15.2 No Third Party Beneficiaries. Nothing contained in this Agreement shall create a contractual relationship with, or any rights in favor of, any third party, including, without limitation, any Project Architect, Contractor, supplier, subcontractor or consultant.

15.3 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction or other competent tribunal or rendered invalid by any legislative or regulatory enactment, the remaining provisions of this Agreement shall remain in full force and effect, and such holding or enactment shall not invalidate or render unenforceable any other provision hereof.

15.4 Headings. The headings used in this Agreement are merely for convenience and have no other force or effect.

15.5 Exhibits. All exhibits annexed hereto are incorporated by reference and made a part of this Agreement.

15.6 Governing Law. This Agreement shall be governed by the laws of the State of Texas, without regard to principles of conflict of law.

15.7 Entire Agreement/Amendments In Writing. This Agreement represents the entire agreement between Owner and Program Manager and supersedes all prior communications, negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Program Manager.

15.8 Hazardous Materials. Program Manager and its consultants will have no responsibility for the discovery, presence, handling, removal or exposure of persons to hazardous materials in any form at any project site.

15.9 Delays Beyond Reasonable Control. Neither Owner nor Program Manager will be responsible for any delays beyond its reasonable control.

15.10 Dispute Resolution. Owner and Program Manager shall endeavor to resolve claims, disputes or other matters in question between them by way of mediation through a neutral third party as a condition precedent to litigation, except where injunctive relief is sought. If the parties do not resolve a dispute through mediation, the method of binding resolution shall be litigation in a court of competent jurisdiction. Venue for any lawsuit shall be in the county where the Project is performed or located.

OWNER:
ECTOR COUNTY ISD

PROGRAM MANAGER:
GALLAGHER CONSTRUCTION COMPANY, LP

By: _____
[Signature]

By: _____
[Signature]

Dr. Scott Muri

Jeff Fisher

Superintendent

President

[Date of Execution]

[Date of Execution]

**SCHEDULE OF
EXHIBITS
TO MASTER AGREEMENT FOR PROGRAM MANAGEMENT
SERVICES**

EXHIBIT "A"	Schedule of Compensation
EXHIBIT "B"	Partial Waiver and Release of Claim Rights
EXHIBIT "C"	Final Waiver and Release of Claim Rights

EXHIBIT “A”

SCHEDULE OF COMPENSATION

The Program Manager shall be compensated by the Owner, as follows:

Project Budget	% of Project Budget
Under \$500,000	10.0%
\$500,000 to \$5,000,000	6.0%
\$5m to \$15m	4.5%
\$15m to \$30m	3.8%
\$30m to \$50m	3.0%
\$50m to \$100m	2.8%
Over \$100m	2.5%

for the Program Management Services, as described within this contract, for any projects associated with the 2023 Bond Program or any other additional projects as assigned by the District.

Once the Board has approved the project for construction to begin the fee will be fixed, based on the percentages above, at that time.

This sum is based on the following provisions:

1. The Program Manager will attempt in every way to ensure these projects are completed on or ahead of schedule. If the projects are completed ahead of schedule the fee shall remain the same.
2. This fee includes the following items:
 - a. Personnel costs, only to the extent such costs are attributed to direct and actual work on the Project
 - b. Home office support costs, only to the extent such costs are attributed to direct and actual work on the Project
 - c. Communication devices and computers, only to the extent such costs are attributed to direct and actual work on the Project
 - d. Onsite Daily office supplies, paper, etc., only to the extent such costs are attributed to direct and actual work on the Project,
 - e. Mailing and courier costs
3. Payment Schedule: The payment schedule, for each project, shall be paid as follows:
 - a. Preconstruction/Design Phase: 40% of the fee billed equally/monthly once the approximate preconstruction schedule is determined.
 - b. Construction Phase: 60% of the fee billed equally/monthly once the approximate construction schedule is determined. Upon approval for construction by the Board of Trustees, the Construction Phase Fee will be adjusted to the actual fixed fee and divided in equal monthly payments for the duration of the project. If this duration is inordinately longer than normal due to coordination requirements or non-schedule compliance by contracted entities of the District, the fees may have to be increased accordingly. If more than one payment remains after reaching Substantial Completion of any Project, the Owner shall make all remaining payments for that Project in one payment.

- c. Payments are due and payable thirty (30) days from the date of the Owner's receipt of the Program Manager's invoice. Amounts unpaid thirty (30) days after the date of Owner's receipt shall bear interest at the rate determined in accordance with the Texas Prompt Payment Act, Chapter 2251 *et seq.*, Texas Government Code.
- 4. The Project Manager will be in the District periodically throughout the Preconstruction and Construction phase.
- 5. Deliverables: Program Manager will provide the following deliverables to the District throughout the duration of the project:
 - a. Construction Manager/General Contractor Selection Evaluations
 - b. Monthly Application for Payment Reviews
 - d. Significant Change Order Estimates
 - e. Quarterly Overall Bond Program Master Schedule Updates

Program Manager Personnel

The Program Manager proposes the following personnel to be assigned to the various ECISD projects:

Project Leader	Oscar Saenz
Project Manager	Todd Cason
Construction Observer	Rene Sepulveda
Quality Control	Randy Wolf
Project Coordinator	Kristen Howard

Personnel assigned to ECISD projects shall not be changed without the written consent of the Owner. Additional personnel resources may be added by the Program Manager, depending on the quantity, complexity and/or schedule of the projects assigned, pending approval of the Owner.

Reimbursable Expenses

The Program Manager shall be reimbursed at cost and without mark-up for reasonable out- of-town travel expenses if requested in advance by the Owner. The actual cost of printing, for drawings, specifications, and bid packages shall be paid by the Owner.

Owner reserves the right to refuse reimbursement for expenses that are not reasonable or necessary for the Work or which are, in Owner's sole discretion, above reasonable and/or market rates.

Owner agrees to reimburse the Program Manager the lump sum of Twenty Thousand Dollars (\$20,000) for increased Professional Errors & Omissions policy limits of Five Million dollars (\$5,000,000) per occurrence with an aggregate limit of Seven Million dollars (\$7,000,000.00) payable upon contract execution.

Changes in the Work

For the purposes of any additions to the scope of the Work as outlined in paragraph 8.1.1, the following hourly rates will apply:

- a. Principal/Project Leader: \$200/hour
- b. Project Manager/Construction Manager: \$150/hour
- c. Project Accountant: \$125/hour
- d. Quality Control: \$120/hour
- e. Construction Observer: \$120/hour
- f. Assistant Project Manager: \$80/hour
- g. Project Coordinator: \$80/hour

EXHIBIT "B"

NOTICE:

This document waives rights unconditionally and states that you have been paid for giving up those rights. It is prohibited for a person to require you to sign this document if you have not been paid the payment amount set forth below. If you have not been paid, use a conditional release form.

UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

Project Job No.

The signer of this document has been paid and has received a progress payment in the sum of \$_____ for all labor, services, equipment, or materials furnished to the property or to (person with whom signer contracted) on the property of (owner) located at (location) to the following extent: (job description). The signer therefore waives and releases any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the above referenced project to the following extent:

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to (person with whom signer contracted) as indicated in the attached statement(s) or progress payment request(s), except for unpaid retention, pending modifications and changes, or other items furnished.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project in regard to the attached statement(s) or progress payment request(s).

(Company Name)

By: _____

Name: _____

Title: _____

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned, a Notary Public on this day of _____, 20____ to certify which witness by hand and seal of office.

Notary Public, State of Texas My Commission Expires:

EXHIBIT "C"

FINAL WAIVER AND RELEASE OF CLAIM RIGHTS

NOTICE:

This document waives rights unconditionally and states that you have been paid for giving up those rights. It is prohibited for a person to require you to sign this document if you have not been paid the payment amount set forth below. If you have not been paid, use a conditional release form.

UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

Project Job No.

The signer of this document has been paid in full for all labor, services, equipment, or materials furnished to the property or to (person with whom signer contracted) on the property of (owner) located at (location) to the following extent: (job description). The signer therefore waives and releases any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position.

The signer warrants that the signer has already paid or will use the funds received from this final payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project up to the date of this waiver and release.

(Company Name)

By: _____

Name: _____

Title: _____

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned, a Notary Public on this day of _____, 20____ to certify which witness by hand and seal of office.

Notary Public, State of Texas
My Commission Expires: _____



Ector County Independent School District

Cover Page

TO: Board of Trustees

FROM: Deborah Ottmers, Chief Financial Officer

SUBJECT: PUBLIC HEARING FOR ADOPTION OF 2024-2025 OFFICIAL BUDGET

DATE: June 18, 2024

The 2024-2025 Official Budget will be presented for Adoption.



Ector County ISD

Budget & Tax Rate Hearing

2024 – 2025

Our Mission

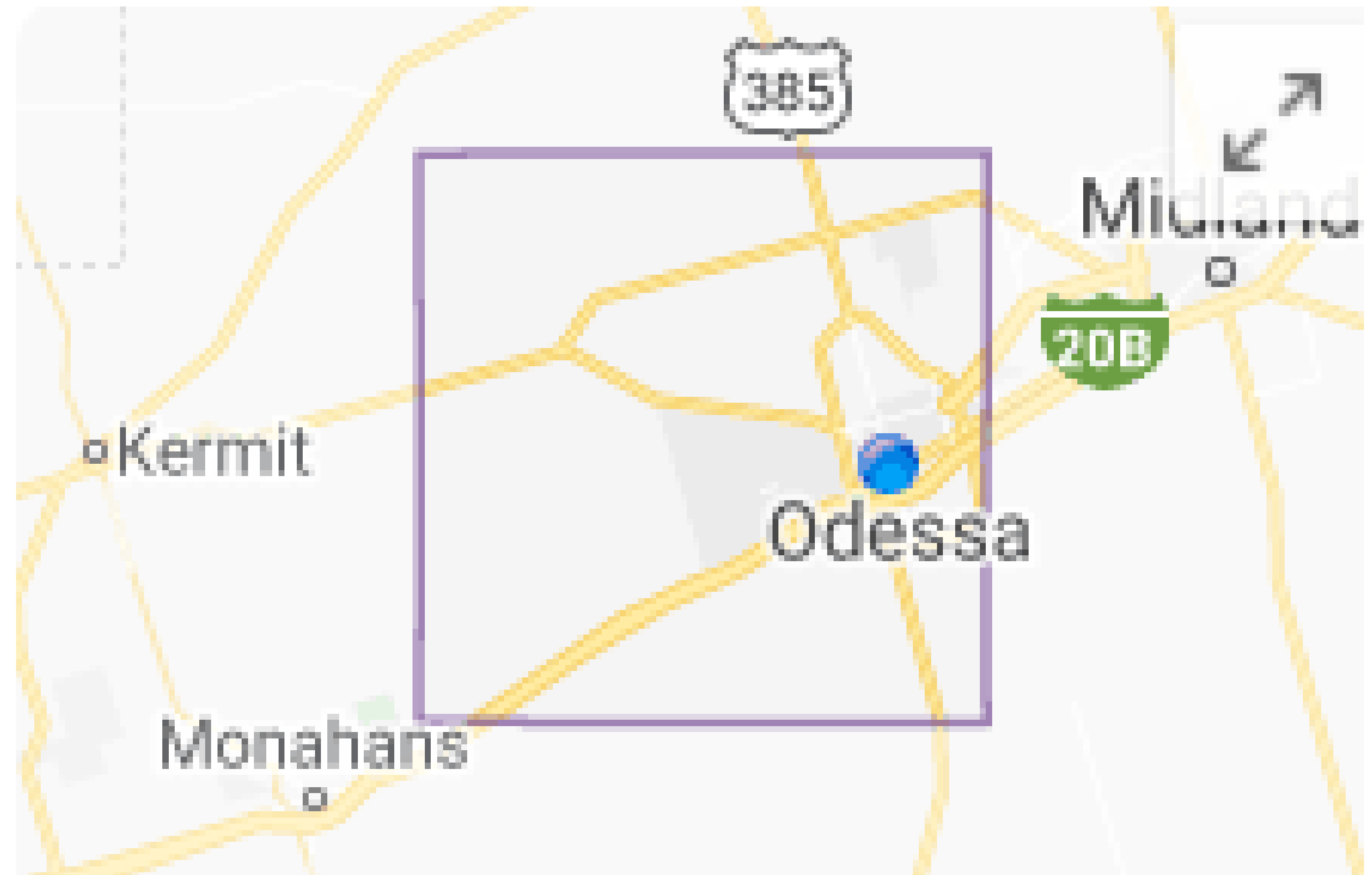
The mission of Ector County ISD is to inspire and challenge every student to be prepared for success and to be adaptable in an ever-changing society.

Our Vision



Serving....

- 33,500 students
- In 43 schools
- Over 945 square miles
- With approximately 4,200 staff



Major items included in Budget:

Based on 2024/2025 board budget goals

- Retain high quality programs
- Retain high quality employees
- General Fund deficit budget to max of \$12 million
- General Fund at approximately 90 days of available fund balance
- School safety and facility improvements
- Equity weighted strategic campus staffing and funding allocations for special education, economically disadvantaged, and English language learners
- Modified zero-base budgeting for departments
- Compensation one time or increase if possible

ECISD
Budget Projections
General Fund
6/4/2024



	Audited 2019/20	Audited 2020/21	Audited 2021/22	Audited 2022/23	current law 33,500 enrolled 88% attendance Projected 2023/24	current law 33,500 enrolled 88% attendance Projected 2024/25
Enrolled (at snapshot at end of Oct)	33,822	31,881	31,810	33,340	33,500	33,500
Refined Average Daily Attendance (end)	29,754	28,669	28,572	29,205	29,500	29,600
Revenue						
57xx Local - M&O Property Tax-current	\$ 160,935,461	\$ 157,601,471	\$ 152,524,869	\$ 158,598,187	\$ 130,000,000	\$ 132,227,000
57xx Local - Other	\$ 4,574,014	\$ 2,340,764	\$ 3,810,912	\$ 8,736,117	\$ 17,500,000	\$ 14,999,062
5811 State- Available School Fund	\$ 9,535,953	\$ 18,350,861	\$ 15,884,281	\$ 18,030,443	\$ 12,116,368	\$ 11,793,200
5812 State- Foundation School Program	\$ 115,353,065	\$ 101,613,254	\$ 106,178,757	\$ 111,626,377	\$ 159,212,740	\$ 159,698,738
58xx State - Other	\$ 310,278	\$ 1,250,749	\$ 2,234,175	\$ 467,246	\$ 1,315,640	\$ 30,000
5831 State - TRS on Behalf	\$ 13,235,877	\$ 12,942,614	\$ 12,921,787	\$ 14,334,183	\$ 14,500,000	\$ 15,000,000
59xx Federal - Other	\$ 2,791,272	\$ 12,472,945	\$ 10,376,058	\$ 6,898,105	\$ 4,100,000	\$ 3,500,000
7xx Other Sources	\$ 69,131	\$ 99,049	\$ 532,462	\$ 849,274	\$ 550,000	\$ 500,000
Total Revenue	\$ 306,805,051	\$ 306,671,707	\$ 304,463,301	\$ 319,539,932	\$ 339,294,748	\$ 337,748,000
Expenditures						
61xx Payroll-TRS on Behalf 6144	\$ 13,235,877	\$ 12,942,614	\$ 12,921,787	\$ 14,334,183	\$ 14,500,000	\$ 15,000,000
Payroll-	\$ 207,820,644	\$ 200,944,308	\$ 227,229,212	\$ 235,555,545	\$ 238,302,108	\$ 231,735,408
Payroll-one time retention						\$ 6,000,000
Payroll- not in pos control sys						\$ 1,618,635
Payroll-campus sub short term						\$ 1,625,400
Payroll-campus sub professional development						\$ 650,160
Payroll - subs - campus long term and other						\$ 1,424,440
Payroll - extra duty						\$ 3,705,962
Payroll - summer						\$ 2,160,820
Payroll - new position non campus requests/reclasses/ad]						\$ 500,000
Payroll - new stipends/suppl pay						\$ -
Payroll - new campus staffing positions/ad] for SPED behavior						\$ 2,500,000
61xx Charter - STEM Academy payroll						\$ 4,150,000
62xx Charter - STEM Academy other					\$ 3,700,000	\$ 3,700,000
Charter - Ector MS other					\$ 14,100,000	\$ -
Charter - YMCA other					\$ 1,300,000	\$ 1,300,000
62xx Contracted Services	\$ 23,460,402	\$ 33,568,800	\$ 30,895,755	\$ 38,381,081	\$ 25,282,000	\$ 28,923,982
63xx Supplies	\$ 25,095,643	\$ 12,666,474	\$ 17,797,549	\$ 20,973,729	\$ 17,000,000	\$ 19,559,089
64xx Travel/Misc	\$ 7,850,600	\$ 7,870,482	\$ 7,517,781	\$ 9,073,446	\$ 11,500,000	\$ 11,287,303
65xx Debt Service	\$ 481,389	\$ 2,726,139	\$ 989,124	\$ 1,106,669	\$ 1,300,000	\$ 1,388,000
66xx Capital Outlay	\$ 5,859,951	\$ 5,568,847	\$ 14,390,204	\$ 7,355,359	\$ 18,300,000	\$ 6,075,000
62xx-64xx Campus Allocations (non payroll)						\$ 5,918,801
8xx Other Uses	\$ 611,605	\$ 506,410	\$ 306,166	\$ 390,882	\$ 525,000	\$ 525,000
62xx-64xx move exp out to Esser 3					\$ (4,000,000)	
61xx-63xx various (\$4m stud devices + payroll org 698 and 114 and 115+\$4m pr above for AC change)					\$ 13,970,000	
61xx-63xx various requests-moved to ESSER 3					\$ (13,970,000)	
Total Expenditures	\$ 284,416,111	\$ 276,794,074	\$ 312,047,578	\$ 327,170,894	\$ 341,809,108	\$ 349,748,000
PP Adj Campus Activity Fund reclass		\$ (933,607)				
Revenues Over(Under) Expenditures	\$ 22,388,940	\$ 28,944,026	\$ (7,584,277)	\$ (7,630,962)	\$ (2,514,360)	\$ (12,000,000)
Note: Budget capital outlay in new year from fund balance reserves						
Ending Fund Balance	\$ 89,289,685	\$ 118,233,711	\$ 110,649,434	\$ 103,018,472	\$ 100,504,112	\$ 88,504,112



	Audited 2019/20	Audited 2020/21	Audited 2021/22	Audited 2022/23	current law 33,500 enrolled 88% attendance Projected 2023/24	current law 33,500 enrolled 88% attendance Projected 2024/25
Enrolled (at snapshot at end of Oct)	33,822	31,881	31,810	33,340	33,500	33,500
Refined Average Daily Attendance (end)	29,754	28,669	28,572	29,205	29,500	29,600
Fund Balance Days of Expenditure	113	154	128	113	106	91
Fund Balance per enrolled	\$ 2,640	\$ 3,709	\$ 3,478	\$ 3,090	\$ 3,000	\$ 2,642
Revenue per enrolled	\$ 9,071	\$ 9,619	\$ 9,571	\$ 9,584	\$ 10,128	\$ 10,082
Revenue per enrolled per each of 180 days	\$ 50	\$ 53	\$ 53	\$ 53	\$ 56	\$ 56
State Funding allocation per enrolled	\$ 8,451	\$ 8,706	\$ 8,632	\$ 8,646	\$ 8,995	\$ 9,066
State Funding allocation per enrolled per 180 days	\$ 47	\$ 48	\$ 48	\$ 48	\$ 50	\$ 50
Expenditure per enrolled	\$ 8,409	\$ 8,682	\$ 9,810	\$ 9,813	\$ 10,203	\$ 10,440
Expenditure per enrolled per each of 180 days	\$ 47	\$ 48	\$ 54	\$ 55	\$ 57	\$ 58
Property Tax Rate	\$ 1.17792	\$ 1.17792	\$ 1.17792	\$ 1.17792	\$ 1.01400	\$ 1.01400
Fund 199 Maintenance & Operations	\$ 1.06835	\$ 1.06835	\$ 1.05170	\$ 0.98100	\$ 0.75960	\$ 0.75960
Fund 599 Debt Service	\$ 0.10957	\$ 0.10957	\$ 0.12622	\$ 0.19692	\$ 0.25440	\$ 0.25440
Operating Days in a year	360	360	360	360	360	360
School Days in a year	180	180	180	180	180	175
Recommended days of fund balance	90	90	90	90	90	90
Enrolled	33,822	31,881	31,810	33,340	33,500	33,500
Refined Average Daily Attendance	29,754	28,669	28,572	29,205	29,500	29,600
Operating Expenditure per each of 360 days	790,045	768,872	866,799	908,808	949,470	971,522
Operating Expenditure for 90 days (25%) (recommended fund balance)	71,104,028	69,198,519	78,011,895	81,792,724	85,452,277	87,437,000
Fund Balance amount differs from 90 days op exp	18,185,657	49,035,193	32,637,540	21,225,749	15,051,835	1,067,112
Fund Balance per each of 360 days	\$ 248,027	\$ 328,427	\$ 307,360	\$ 286,162	\$ 279,178	\$ 245,845
Fund Balance Days of Expenditure	113	154	128	113	106	91
Fund Balance Days differs than 90 recommended	23	64	38	23	16	1
Amount differs from 90 days	\$ 18,185,657	\$ 49,035,193	\$ 32,637,540	\$ 21,225,749	\$ 15,051,835	\$ 1,067,112

Supplant to ESSER I-\$5 m Supplant to ESSER II-\$21m

Supplant to ESSER III-\$10m

ECISD Website - Finance Division

Finance

- Home
- + Activity & Discretionary Funds
- Administrative Procedures Manual
- + Bonds/Debt
- Chapter 313 Property Tax Value Limitation Agreements
- Financial Information >
- Forms
- Organization Chart
- + Staff Directory

Financial Information

[Expand All](#)

2024-25 Financial Information

- o [2024-25 Budget Book Summary ECISD Proposed Budget Funds 199 240 599](#)
- o [2024-25 Maximum Compressed Tax Rate](#)
- o [2024-25 Notice of Public Meeting ECISD for June 24](#)
- o [2024-25 Tax Rate Proposed and History](#)
- o [2024-25 Web Posting for Proposed Budget](#)

2023-24 Financial Information

- o [2023-24 Adopted Budget](#) ↓▲
- o [2023-24 Budget Book Summary ECISD Proposed Budget Funds 199 240 599](#) ↓▲
- o [2023-24 Budget Hearing](#) ↓▲
- o [2023-24 ECAD Tax Calc Worksheet CH313 50-884](#) ↓▲
- o [2023-24 Maximum Compressed Tax Rate](#) ↓▲
- o [2023-24 Notice of Public Meeting ECISD for June 23](#) ↓▲
- o [2023-24 Tax Rate and Budget Information](#) ↓▲
- o [2023-24 Tax Rate Hearing Sept 23](#) ↓▲
- o [2023-24 Tax Rate Ordinance \(signed\)](#) ↓▲
- o [2023-24 Tax Rate Proposed and History at Budget Adoption](#) ↓▲
- o [2023-24 Tax Rate Proposed and History at Tax Rate Adoption](#) ↓▲
- o [2023-24 Web Posting for Adopted Budget](#) ↓▲
- o [2023-24 Web Posting for Proposed Budget](#) ↓▲
- o [Financial Stewardship Aug 2023](#) ↓▲
- o [TRE 2018 13 Cents Tracking of Expenditures](#) ↓▲

<https://www.ectorcountysd.org/Page/5843>

Budget Book

By Campus and Department

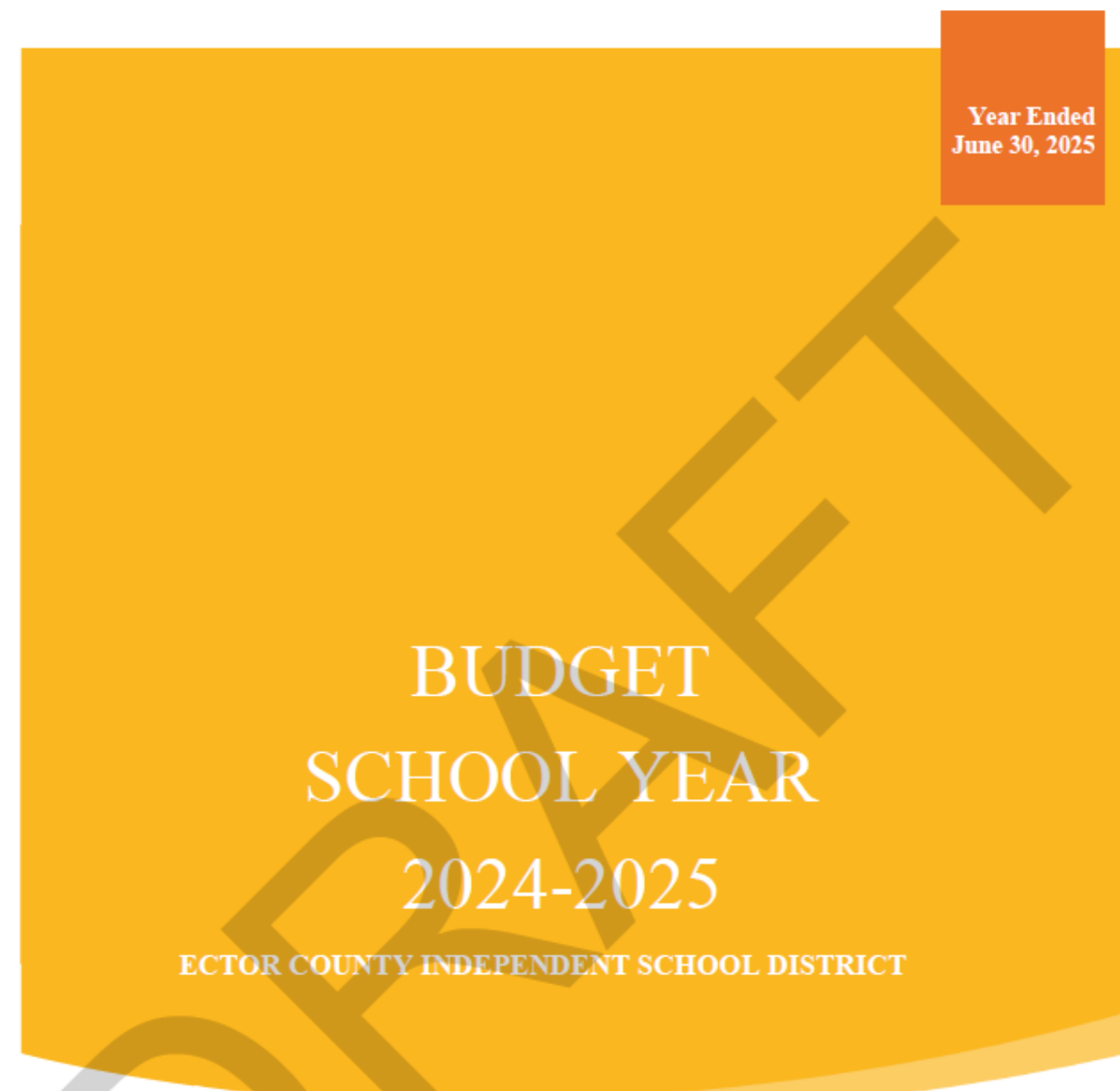


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Budgets to Adopt



ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
REVENUES, APPROPRIATIONS AND OTHER FINANCING SOURCES
REQUIRED BUDGETS TO ADOPT
2024-2025

Codes

REVENUES

5700	Local and Intermediate
5800	State
5900	Federal
Total - All Revenues	

APPROPRIATIONS

11	Instruction
12	Instructional Resources and Media Services
13	Curriculum and Staff Development
21	Instructional Leadership
23	School Leadership
31	Guidance, Counseling and Evaluation Services
32	Social Work Services
33	Health Services
34	Student Transportation
35	Food Services
36	Co/Extra Curricular Activities
41	General Administration
51	Plant Maintenance and Operations
52	Security and Monitoring Services
53	Data Processing Services
61	Community Services
71	Debt Services
81	Facilities Acquisition and Construction
92	Recapture Payment to state
93	Recapture Incremental Costs
99	Intergovernmental Charges
Total - All Appropriations	

OTHER FINANCING SOURCES/(USES)

7000	Other Financing Sources
8000	Other Financing Uses
Total - Other Financing Sources (Uses)	

Excess (Deficiency) of Revenues and Other Financing Sources over Appropriations

Fund Balance Beginning (Estimated)

3000 Fund Balance Ending (Estimated)

GENERAL FUND 2024-2025 PROPOSED BUDGET	SCHOOL NUTRITION FUND 2024-2025 PROPOSED BUDGET	DEBT SERVICE FUND 2024-2025 PROPOSED BUDGET	TOTAL 2024-2025 PROPOSED BUDGET
147,226,062	702,700	46,249,195	194,177,957
186,521,938	434,000	-	186,955,938
2,500,000	19,140,615	-	22,040,615
337,248,000	20,277,315	46,249,195	403,774,510
200,591,101	-	-	200,591,101
2,080,846	-	-	2,080,846
9,812,543	-	-	9,812,543
5,236,712	-	-	5,236,712
19,788,203	-	-	19,788,203
16,622,717	-	-	16,622,717
1,898,930	-	-	1,898,930
3,206,566	-	-	3,206,566
10,848,013	-	-	10,848,013
-	20,327,315	-	20,327,315
8,062,579	-	-	8,062,579
8,517,284	-	-	8,517,284
36,845,955	-	-	36,845,955
8,225,177	-	-	8,225,177
9,325,521	-	-	9,325,521
1,511,998	-	-	1,511,998
1,388,000	-	16,849,195	18,237,195
3,000,000	-	-	3,000,000
-	-	-	-
-	-	-	-
2,260,855	-	-	2,260,855
349,223,000	20,327,315	16,849,195	386,399,510
500,000	50,000	-	550,000
525,000	-	-	525,000
25,000	50,000	-	25,000
(12,000,000)	-	29,400,000	17,400,000
100,504,112	7,166,340	16,820,602	124,491,054
(12,000,000)	-	29,400,000	17,400,000
88,504,112	7,166,340	46,220,602	141,891,054

**Ector County Independent School District
General Operating Fund 199
Adopted Budget by Function and Object
for Fiscal Year 2024 - 2025
at June 18, 2024**



Object Code	Estimated Revenue	Per Enrolled 33,500	2024 - 2025 Budget	
5700	Local Revenue	\$ 4,395	\$ 147,226,422	(Includes property tax collections which are based on CURRENT YEAR estimated valuations)
5800	State Revenue	\$ 5,568	\$ 186,521,938	
5900	Federal Revenue	\$ 104	\$ 3,500,000	
	Total Revenues		\$ 337,248,000	
7900	Other Sources	\$ 15	\$ 500,000	
	Total Estimated Revenue & Other Sources	\$ 10,082	\$ 337,748,000	

Function Code	Budgeted Expenditures	%	Per Enrolled 33,500	Totals	Payroll 6100	Services 6200	Supplies 6300	Travel/Misc 6400	Debt 6500	Capital Exp 6600
11	Instruction	57%	\$ 5,988	\$ 200,591,101	\$ 175,250,918	\$ 11,122,589	\$ 12,695,103	\$ 1,224,491	\$ -	\$ 298,000
12	Instructional Resources & Media :	1%	\$ 62	\$ 2,080,846	\$ 1,846,646	\$ 42,300	\$ 99,900	\$ 60,000	\$ -	\$ 32,000
13	Curr & Instructional Staff Develop	3%	\$ 293	\$ 9,812,543	\$ 7,619,498	\$ 1,040,290	\$ 429,250	\$ 714,505	\$ -	\$ 9,000
21	Instructional Leadership	1%	\$ 156	\$ 5,236,712	\$ 4,468,139	\$ 158,794	\$ 294,569	\$ 305,210	\$ -	\$ 10,000
23	School Leadership	6%	\$ 591	\$ 19,788,203	\$ 18,353,628	\$ 199,900	\$ 833,812	\$ 382,863	\$ -	\$ 18,000
31	Guidance & Counseling Services	5%	\$ 496	\$ 16,622,717	\$ 13,929,444	\$ 913,620	\$ 1,651,133	\$ 127,020	\$ -	\$ 1,500
32	Social Services	1%	\$ 57	\$ 1,898,930	\$ 1,166,440	\$ 688,670	\$ 13,540	\$ 27,280	\$ -	\$ 3,000
33	Health Services	1%	\$ 96	\$ 3,206,566	\$ 3,110,401	\$ 16,900	\$ 49,440	\$ 28,825	\$ -	\$ 1,000
34	Pupil Transportation	3%	\$ 324	\$ 10,848,013	\$ 7,284,629	\$ 278,500	\$ 1,563,800	\$ 314,084	\$ -	\$ 1,407,000
36	Co-Curricular Activities	2%	\$ 241	\$ 8,062,579	\$ 3,681,179	\$ 1,056,000	\$ 422,250	\$ 2,895,150	\$ -	\$ 8,000
41	General Administration	2%	\$ 254	\$ 8,517,284	\$ 5,881,217	\$ 1,408,280	\$ 262,590	\$ 947,197	\$ -	\$ 18,000
51	Plant Maintenance	11%	\$ 1,100	\$ 36,845,955	\$ 16,994,725	\$ 12,080,700	\$ 2,851,080	\$ 4,752,450	\$ -	\$ 167,000
52	Security & Monitoring Services	2%	\$ 246	\$ 8,225,177	\$ 6,043,200	\$ 470,550	\$ 559,149	\$ 71,278	\$ -	\$ 1,081,000
53	Data Processing Services	3%	\$ 278	\$ 9,325,521	\$ 4,887,728	\$ 3,164,694	\$ 1,005,600	\$ 232,499	\$ -	\$ 35,000
61	Community Services	0%	\$ 45	\$ 1,511,998	\$ 1,304,348	\$ 45,200	\$ 63,350	\$ 97,600	\$ -	\$ 1,500
71	Debt Service	0%	\$ 41	\$ 1,388,000	\$ -	\$ -	\$ -	\$ -	\$ 1,388,000	\$ -
81	Facilities Acquisition and Construc	1%	\$ 90	\$ 3,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,000,000
91	Recapture Payment to state	0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
92	Recapture Incremental Costs	0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
93	Shared Service Arrangement	0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
99	Inter-Governmental Charges	1%	\$ 67	\$ 2,260,855	\$ -	\$ 2,260,855	\$ -	\$ -	\$ -	\$ -
	Total Budgeted Expenditures	100%	10,425	\$ 349,223,000	\$ 271,822,140	\$ 34,947,842	\$ 22,794,566	\$ 12,180,452	\$ 1,388,000	\$ 6,090,000
					77.8%	10.0%	6.5%	3.5%	0.4%	1.7%

00-8XXX	Other Uses	\$ 16	\$ 525,000
	Total Exp & Operating Transfer Out	\$ 10,440	\$ 349,748,000

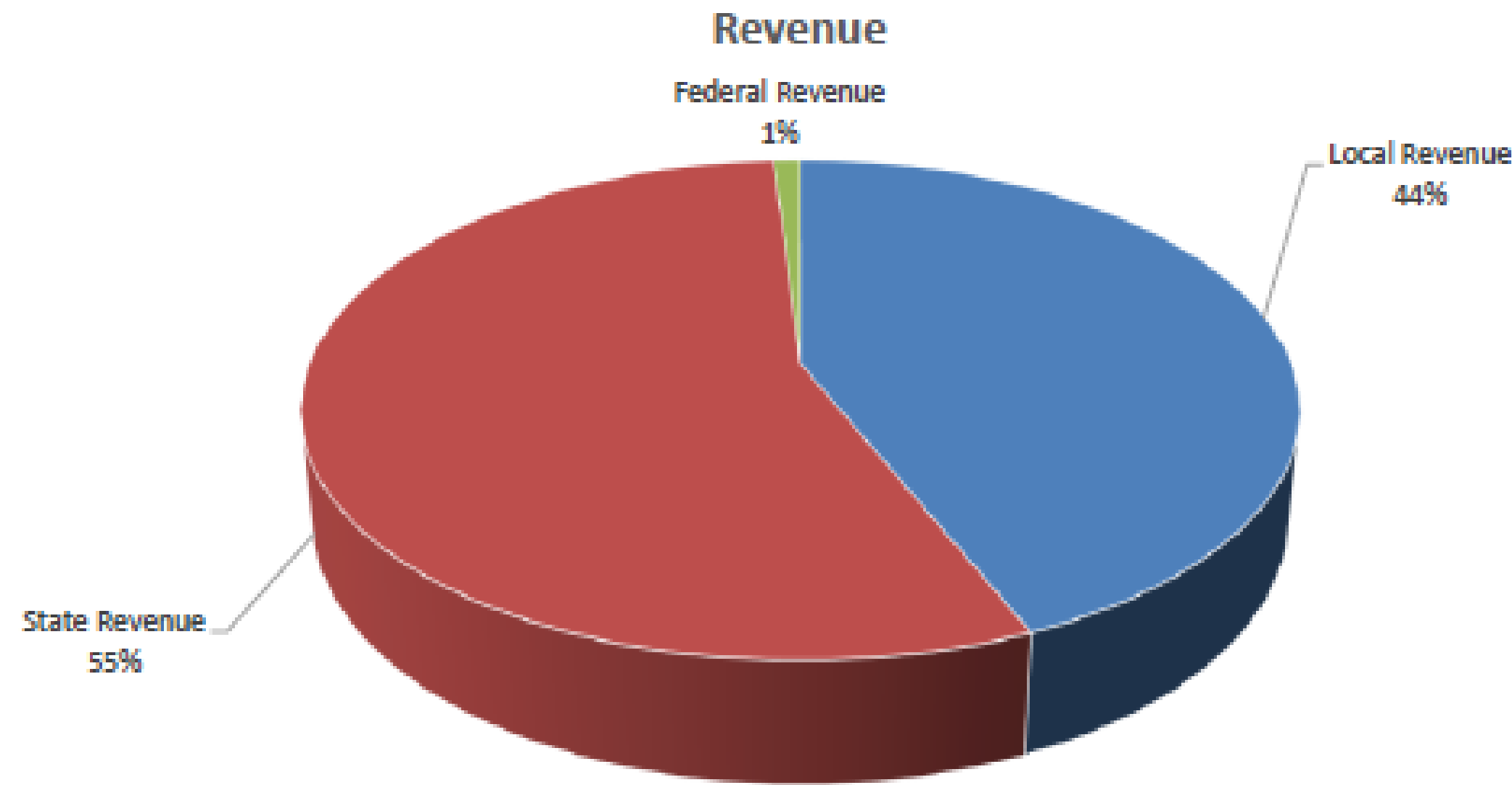
Estimated Increase (Decrease) to Fund Balance **\$ (12,000,000)**

Expenditure Object Code	Summary			
6100	Salaries and Benefits	\$ 8,114	\$ 271,822,140	
6200	Contracted Services	\$ 1,043	\$ 34,947,842	(Includes recapture obj 6224 if any and lobbying obj 6214)
6300	Supplies and Materials	\$ 680	\$ 22,794,566	
6400	Other Operating Expenses	\$ 364	\$ 12,180,452	(Includes statutorily required postings in newspaper obj 6491)
6500	Debt Service	\$ 41	\$ 1,388,000	
6600	Capital Outlay	\$ 182	\$ 6,090,000	
8900	Other Uses	\$ 16	\$ 525,000	
	Total Exp & Operating Transfer Out	\$ 10,440	\$ 349,748,000	
			\$ -	

Estimated Fund Balance at of 6/30/24	\$ 100,504,112
Estimated Fund Balance at of 6/30/25	\$ 88,504,112
Estimated Change in Fund Balance	\$ (12,000,000)

General Fund

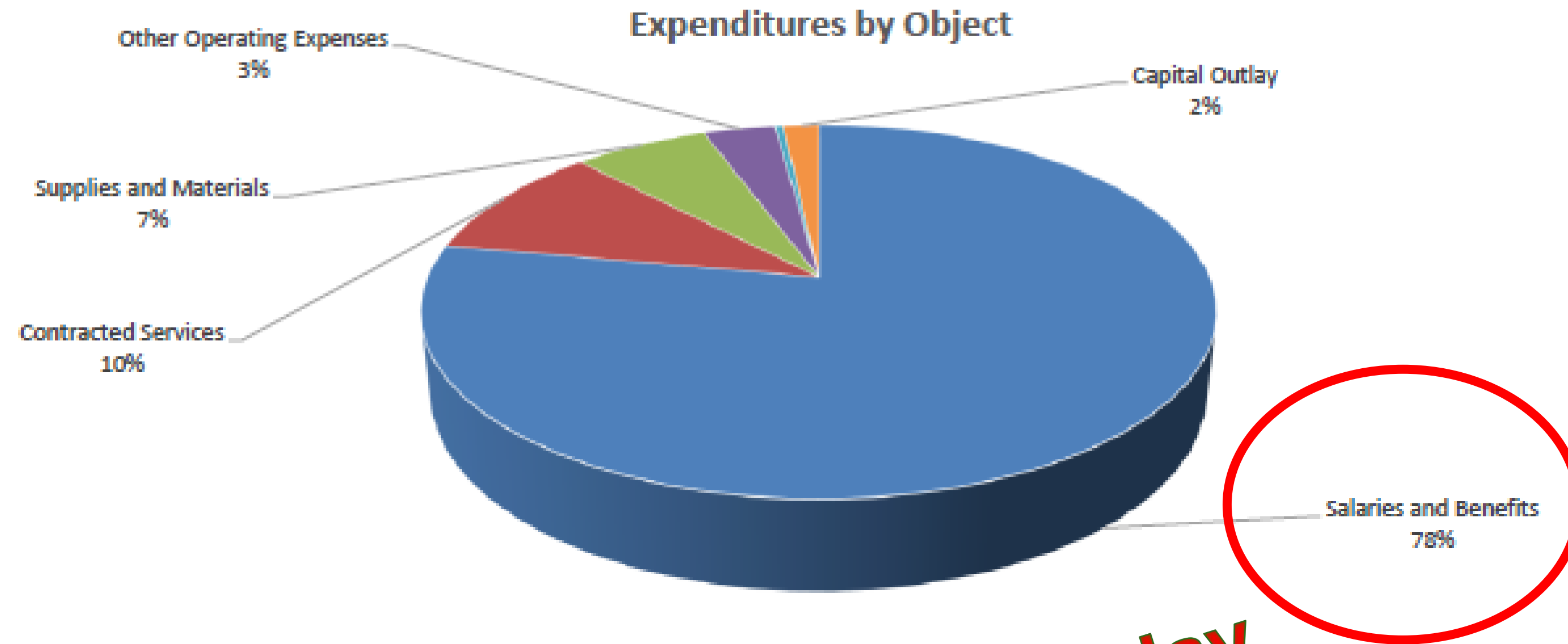
Revenue



\$56 per attendee per school day

Object Code	Estimated Revenue	Per Enrolled 33,500	2024 - 2025 Budget
5700 Local Revenue		\$ 4,395	\$147,226,062
5800 State Revenue		\$ 5,568	\$186,521,938
5900 Federal Revenue		\$ 104	\$ 3,500,000
Total Revenues			\$337,248,000
7900 Other Sources		\$ 15	\$ 500,000
Total Estimated Revenue & Other Sources		\$ 10,082	\$337,748,000

Expenditures By Object



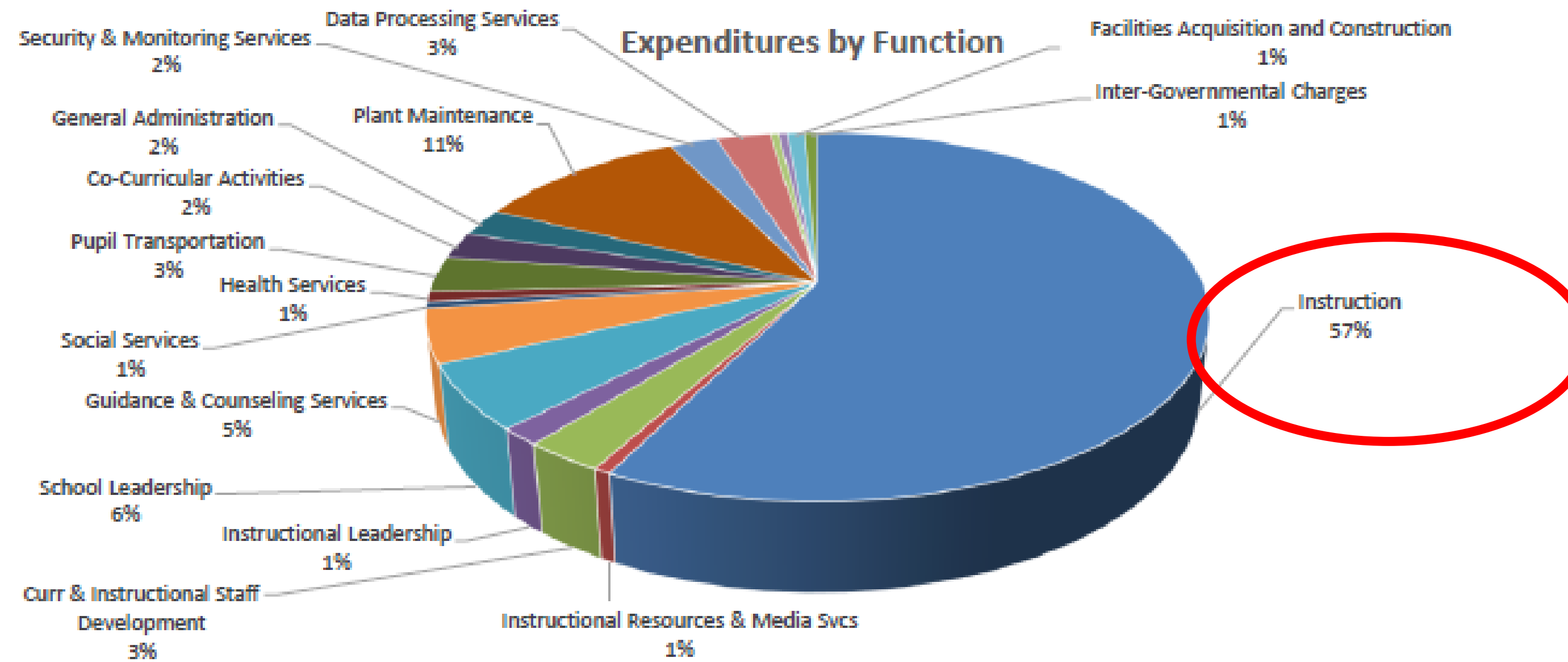
\$58 per enrolled per school day

Expenditure Object Code Summary

6100	Salaries and Benefits	\$ 8,114	\$271,822,140
6200	Contracted Services	\$ 1,043	\$ 34,947,842
6300	Supplies and Materials	\$ 680	\$ 22,794,566
6400	Other Operating Expenses	\$ 364	\$ 12,180,452
6500	Debt Service	\$ 41	\$ 1,388,000
6600	Capital Outlay	\$ 182	\$ 6,090,000
8900	Other Uses	\$ 16	\$ 525,000
	Total Exp & Operating Transfer Out	\$ 10,440	\$349,748,000

General Fund

Expenditures by Function



Function Code	Function	%	Per Enrolled 33,500	Totals
11	Instruction	57%	\$ 5,988	\$ 200,591,101
12	Instructional Resources & Media Svcs	1%	\$ 62	\$ 2,080,846
13	Curr & Instructional Staff Development	3%	\$ 293	\$ 9,812,543
21	Instructional Leadership	1%	\$ 156	\$ 5,236,712
23	School Leadership	6%	\$ 591	\$ 19,788,203
31	Guidance & Counseling Services	5%	\$ 496	\$ 16,622,717
32	Social Services	1%	\$ 57	\$ 1,898,930
33	Health Services	1%	\$ 96	\$ 3,206,566
34	Pupil Transportation	3%	\$ 324	\$ 10,848,013
36	Co-Curricular Activities	2%	\$ 241	\$ 8,062,579
41	General Administration	2%	\$ 254	\$ 8,517,284
51	Plant Maintenance	11%	\$ 1,100	\$ 36,845,955
52	Security & Monitoring Services	2%	\$ 246	\$ 8,225,177
53	Data Processing Services	3%	\$ 278	\$ 9,325,521
61	Community Services	0%	\$ 45	\$ 1,511,998
71	Debt Service	0%	\$ 41	\$ 1,388,000
81	Facilities Acquisition and Construction	1%	\$ 90	\$ 3,000,000
91	Recapture Payment to state	0%	\$ -	\$ -
92	Recapture Incremental Costs	0%	\$ -	\$ -
93	Shared Service Arrangement	0%	\$ -	\$ -
99	Inter-Governmental Charges	1%	\$ 67	\$ 2,260,855
Total Budgeted Expenditures			100%	\$ 349,223,000
00-8XXX	Other Uses		\$ 16	\$ 525,000
Total Exp & Operating Transfer Out			\$ 10,440	\$ 349,748,000

\$58 per enrolled per school day

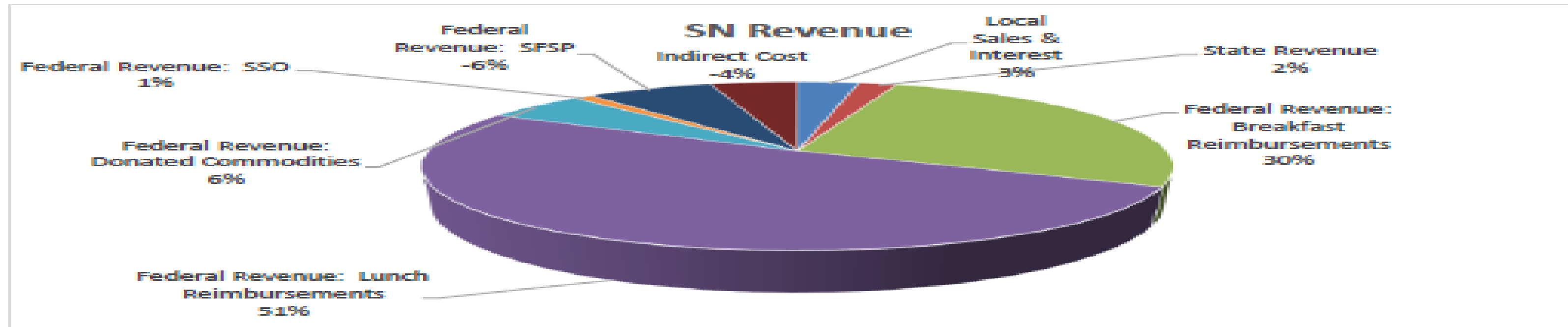
School Nutrition

**Ector County Independent School District
School Nutrition Fund 240
Statement of Revenues and Expenditures
Budget 2024/2025
as of 6/18/24**



REVENUE

Object Code	Revenue	Beginning/ Original Budget	%	Per Enrolled 33,500
5700	Local Sales & Interest	\$ 702,700	3%	
5800	State Revenue	\$ 434,000	2%	
5921	Federal Revenue: Breakfast Reimbursements	\$ 5,932,000	29%	
5922	Federal Revenue: Lunch Reimbursements	\$ 11,377,300	56%	
5923	Federal Revenue: Donated Commodities	\$ 1,159,235	6%	
5929	Federal Revenue: SSO	\$ 213,000	1%	
5939	Federal Revenue: SFSP	\$ 1,459,080	7%	
5929-01	Indirect Cost	\$ (1,000,000)	-5%	
Total Revenue		\$ 20,277,315	100%	\$ 605
7900	Other Sources	\$ 50,000		\$ 1
Total Estimated Revenue & Other Sources		\$ 20,327,315		\$ 607



In 23/24, all students could eat free breakfast and lunch.

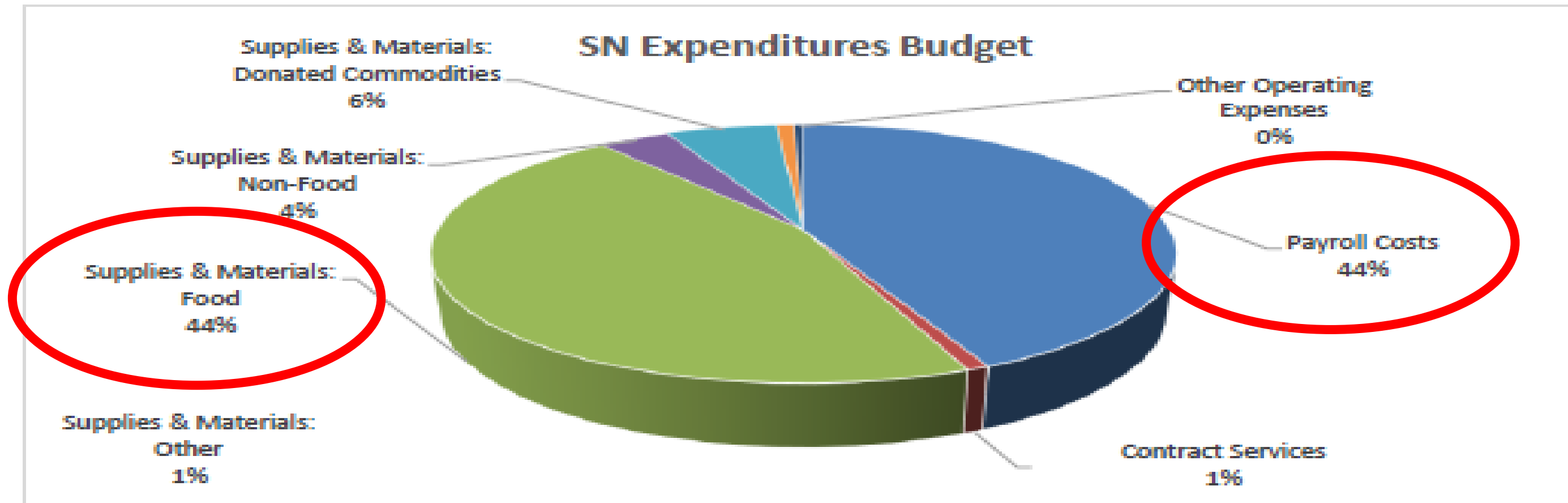
On average of 13,595 students (40%) ate FREE breakfast daily, and 17,591 (53%) ate FREE lunch daily.

School Nutrition

EXPENDITURES

Object Code	Fn Code	Expenditure	Beginning/ Original Budget	%	Per Enrolled 33,500
6100	35	Payroll Costs	\$ 8,732,859	43%	
6200	35	Contracted Services	\$ 166,000	1%	
6341	35	Supplies & Materials: Food	\$ 9,162,721	45%	
6342	35	Supplies & Materials: Non-Food	\$ 750,000	4%	
6344	35	Supplies & Materials: Donated Commodities	\$ 1,159,235	6%	
63xx	35	Supplies & Materials: Other	\$ 185,000	1%	
6400	35	Other Operating Expenses	\$ 101,500	1%	
			\$ 20,257,315	100%	\$ 605
6600		Capital Outlay	\$ 70,000		\$ 2
Total Expenditures			\$ 20,327,315		\$ 607

Estimated Fund Balance at of 6/30/24	\$ -
Estimated Fund Balance at of 6/30/25	\$ 7,166,340
Estimated Change in Fund Balance	\$ -



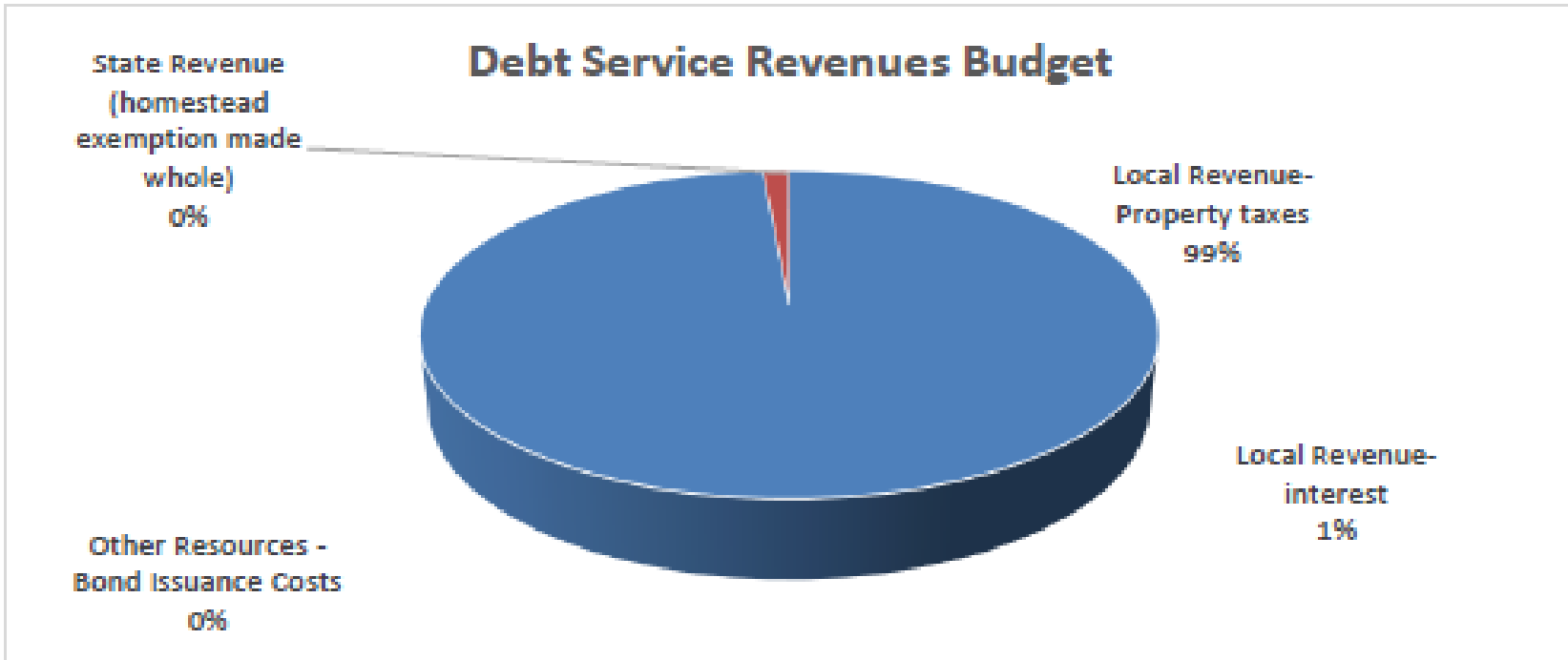
Debt Service

**Ector County Independent School District
Debt Service Fund 599
Revenues and Expenditures
Budget FY 2024/25
at 6/18/24**



REVENUE

Object Code	Revenue	Beginning/ Original Budget	%	Per Enrolled 33,500
571x	Local Revenue-Property taxes	\$ 45,624,195	99%	
574x	Local Revenue-interest	\$ 625,000	1%	
5800	State Revenue (homestead exemption made whole)	\$ -	0%	
7900	Other Resources - Bond Issuance Costs	\$ -	0%	
Total Revenue		\$ 46,249,195	100%	\$ 1,381



EXPENDITURES

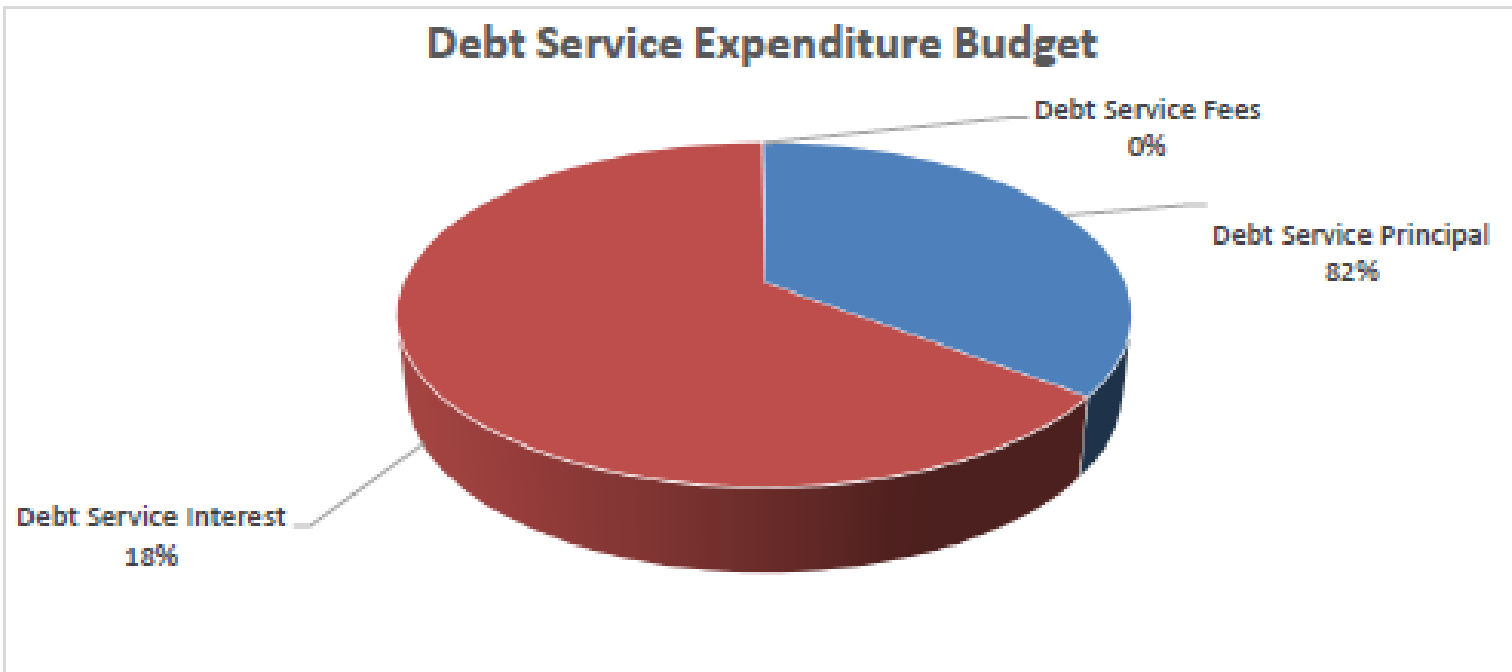
Object Code	Expenditure	Beginning/ Original Budget	%	Per Enrolled 33,500
6511	Debt Service Principal	\$ 5,965,000	35%	
6521	Debt Service Interest	\$ 10,864,047	64%	
6524	Debt Service - Bond Issuance Costs	\$ -	0%	
6599	Debt Service Fees	\$ 20,148	0%	
8900	Debt Service - Bond Issuance Costs	\$ -	0%	
Total Expenditures - Function 71		\$ 16,849,195	100%	\$ 503
		\$ 29,400,000		

Net Change in Fund Balance

Estimated Fund Balance at of 6/30/24	\$ 16,820,602	For payments in 2024/2025
Estimated Fund Balance at of 6/30/25	\$ 46,220,602	For payments beginning 1.5 months later in August
Estimated Change in Fund Balance	\$ 29,400,000	

Notes

Debt Service payments are due in Feb and August of each year.
Fund Balance will be used to make August principal and interest payments in August 2025.



Additional revenues/expenditures of \$29.4 million is included to pay bonds 1.5 months after end of year and to defease (pre-pay) some outstanding bonds and to save approximately \$4 million in future interest costs.

Budget Summary Report for **ECTOR COUNTY ISD**

2023 - 2024 Actual Budget			
		Aggregate Expenditures	Per Pupil Expenditures
Instruction			
11	Instruction	\$203,093,872	\$6,063
12	Instructional Resources, Media Services	\$2,171,703	\$65
13	Curriculum Development & Staff Development	\$7,721,409	\$230
95	Payment to Juvenile Justice AEP	\$0	\$0
	Total:	\$212,986,984	\$6,358
Instructional Support			
21	Instructional Leadership	\$5,509,168	\$164
23	School Leadership	\$23,620,378	\$705
31	Guidance & Counseling, Evaluation	\$15,849,931	\$473
32	Social Work Services	\$1,732,487	\$52
33	Health Services	\$3,288,406	\$98
36	Co-curricular/ Extra-curricular Activities	\$8,234,311	\$246
	Total	\$58,234,681	\$1,738

2024 - 2025 "Proposed" Budget			
		Aggregate Expenditures	Per Pupil Expenditures
Instruction			
11	Instruction	\$200,591,101	\$5,988
12	Instructional Resources, Media Services	\$2,080,846	\$62
13	Curriculum Development & Staff Development	\$9,812,543	\$293
95	Payment to Juvenile Justice AEP	\$0	\$0
	Total:	\$212,484,490	\$6,343
Instructional Support			
21	Instructional Leadership	\$5,236,712	\$156
23	School Leadership	\$19,788,203	\$591
31	Guidance & Counseling, Evaluation	\$16,622,717	\$496
32	Social Work Services	\$1,898,930	\$57
33	Health Services	\$3,206,566	\$96
36	Co-curricular/ Extra-curricular Activities	\$8,062,579	\$241
	Total	\$54,815,707	\$1,636
			\$0

Central Administration				Central Administration			\$0
41	General Administration	\$9,277,500	\$277	41	General Administration	\$8,496,684	\$254
41	Publish Required Notices	\$23,080	\$1	41	Publish Required Notices	\$16,600	\$0
41	Lobbying	\$4,000	\$0	41	Lobbying	\$4,000	\$0
	Total:	\$9,304,580	\$278		Total:	\$8,517,284	\$254
District Operations				District Operations			
51	Plant Maintenance & Operations	\$41,536,047	\$1,240	51	Plant Maintenance & Operations	\$36,845,955	\$1,100
52	Security and Monitoring	\$6,201,921	\$185	52	Security and Monitoring	\$8,225,177	\$246
53	Data Processing	\$9,717,830	\$290	53	Data Processing	\$9,325,521	\$278
34	Student Transportation	\$11,852,924	\$354	34	Student Transportation	\$10,848,013	\$324
35	Food Services	\$23,513,199	\$702	35	Food Services	\$20,327,315	\$607
	Total:	\$92,821,921	\$2,771		Total:	\$85,571,981	\$2,554
Debt Service				Debt Service			
71	Debt Service	\$49,060,925	\$1,465	71	Debt Service	\$18,237,195	\$544
Other				Other			
61	Community Service	\$1,677,492	\$50	61	Community Service	\$1,511,998	\$45
81	Facilities Acquisition and Construction	\$15,259,846	\$456	81	Facilities Acquisition and Construction	\$3,000,000	\$90
91	Contracted Instructional Services Between Public schools	\$0	\$0	91	Contracted Instructional Services Between Public schools	\$0	\$0
92	Incremental Cost Associated with Chapter 41 School Districts	\$0	\$0	92	Incremental Cost Associated with Chapter 41 School Districts	\$0	\$0
93	Payments to Fiscal Agents for Shared Service Arrangements	\$0	\$0	93	Payments to Fiscal Agents for Shared Service Arrangements	\$0	\$0
97	Payments to Tax Increment Funds	\$0	\$0	97	Payments to Tax Increment Funds	\$0	\$0
99	Inter-government charges not Defined in Other codes	\$2,132,882	\$64	99	Inter-government charges not Defined in Other codes	\$2,260,855	\$67
	Total:	\$19,070,220	\$569		Total:	\$6,772,853	\$202

NOTICE OF PUBLIC MEETING TO DISCUSS BUDGET AND PROPOSED TAX RATE

The Ector County Independent School District will hold a public meeting at 6:00 p.m. Tuesday, June 18, 2024 in the ECISD Central Administration Office first floor Board Room at 802 N. Sam Houston, Odessa TX. The purpose of this meeting is to discuss the school district's budget that will determine the tax rate that will be adopted. Public participation in the discussion is invited.

The tax rate that is ultimately adopted at this meeting or at a separate meeting at a later date may not exceed the proposed rate shown below unless the district publishes a revised notice containing the same information and comparisons set out below and holds another public meeting to discuss the revised notice.

Maintenance Tax	\$.7596 /\$100 (Proposed rate for maintenance and operations)
School Debt Service Tax approved by local voters	\$.2544 /\$100 (Proposed rate to pay bonded indebtedness)

Comparison of Proposed Rates with Last Year's Budget		
The applicable percentage increase or decrease (or difference) in the amount budgeted in the preceding fiscal year and the amount budgeted for the fiscal year that begins during the current tax year is indicated for each of the following expenditure categories:		
Maintenance and operations	2.32	% increase
Debt service	.63	% increase
Total expenditures	2.12	% increase

Total Appraised Value and Total Taxable Value (as calculated under Section 26.04, Tax Code)		
	Preceding Tax Year	Current Tax Year
Total appraised value* of all property	\$ 24,232,771,178	\$ 24,339,746,048
Total appraised value* of new property**	\$ 839,819,651	\$ 1,836,819,063
Total taxable value*** of all property	\$ 18,054,865,100	\$ 17,582,027,735
Total taxable value*** of new property**	\$ 617,331,002	\$ 1,479,809,046

* "Appraised value" is the amount shown on the appraisal roll and defined by Section 1.04 (8), Tax Code
 ** "New property" is defined by Section 26.012 (17), Tax Code
 *** "Taxable value" is defined by Section 1.04 (10), Tax Code

Bonded Indebtedness	
Total amount of outstanding and unpaid bonded indebtedness*	\$ 344,365,000

* Outstanding Principal for 2024/25

	Comparison of Proposed Rates with Last Year's Rates				
	Maintenance & Operations*	Interest & Sinking Fund**	Total	Local Revenue Per Student	State Revenue Per Student
Last Year's Rate	\$.75960	\$.25440	\$ 1.01400	\$ 5.987	\$ 5.784
Rate to Maintain Same Level of Maintenance & Operations Revenue & Pay Debt Service	\$.74974	\$.24998	\$.99971	\$ 5.962	\$ 5.778
Proposed Rate	\$.75960	\$.25440	\$ 1.01400	\$ 5.963	\$ 5.794

** The Interest & Sinking Fund tax revenue is used to pay for bonded indebtedness on construction, equipment, or both. The bonds, and the tax rate necessary to pay those bonds, were approved by the voters of this district.

Comparison of Proposed Levy with Last Year's Levy on Average Residence		
	Last Year	This Year
Average Market Value of Residences	\$ 202,180	\$ 220,486
Average Taxable Value of Residences	\$ 81,635	\$ 85,984
Last Year's Rate Versus Proposed Rate per \$100 Value	\$ 1.014	\$ 1.014
Taxes Due on Average Residence	\$ 827.78	\$ 871.88
Increase (Decrease) in Taxes		\$ 44.10

Under state law, the dollar amount of school taxes imposed on the residence homestead of a person 65 years of age or older or of the surviving spouse of such a person, if the surviving spouse was 55 years of age or older when the person died, may not be increased above the amount paid in the first year after the person turned 65, regardless of changes in tax rate or property value.

Notice of Voter-Approval Rate: The highest tax rate the district can adopt before requiring voter approval at an election is **\$1.014**. This election will be automatically held if the district adopts a rate in excess of the voter-approval rate of **\$1.014**.

Fund Balances	
The following estimated balances will remain at the end of the current fiscal year and are not encumbered with or by a corresponding debt obligation, less estimated funds necessary for operating the district before receipt of the first state aid payment:	
Maintenance and Operations Fund Balance(s)	\$ 43,535,927
Interest & Sinking Fund Balance(s)	\$ 4,831,267

A school district may not levy the district's maintenance and operations tax rate to create a surplus in maintenance and operations tax revenue for the purpose of paying the district's debt service.

Visit Texas.gov/PropertyTaxes to find a link to your local property tax database on which you can easily access information regarding your property taxes, including information about proposed tax rates and scheduled public hearings of each entity that taxes your property. The 86th Texas Legislature modified the manner in which the voter-approval tax rate is calculated to limit the rate of growth of property taxes in the state.

Property Tax

Based on estimated property values in April 2024

Published in Newspaper on 6/8/24

Let's look closer....

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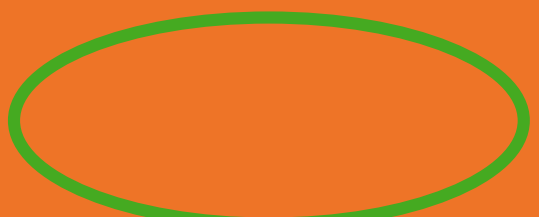
Bonded Indebtedness

Total amount of outstanding and unpaid bonded indebtedness*	\$ 344,365,000
---	----------------

* Outstanding Principal for 2024/25

Same tax rate

Approximate increase
in total appraised
value: .44%



Comparison of Proposed Rates with Last Year's Rates

	<u>Maintenance & Operations*</u>	<u>Interest & Sinking Fund**</u>	<u>Total</u>	<u>Local Revenue Per Student</u>	<u>State Revenue Per Student</u>
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** The Interest & Sinking Fund tax revenue is used to pay for bonded indebtedness on construction, equipment, or both. The bonds, and the tax rate necessary to pay those bonds, were approved by the voters of this district.

Gross revenue per penny of tax: \$1.74 million

Comparison of Proposed Levy with Last Year's Levy on Average Residence

	<u>Last Year</u>	<u>This Year</u>
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Approximate increase in average homestead value: 9%

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Approximate increase in average homestead taxes: \$44

Maximum Compressed Rate (MCR) No New Revenue (NNR) and Voter Approved Tax Rate (VATR)

Appendix

Preliminary rate as of June 2024. TEA final calculated rate will be available by 8/12/24 prior to adoption of tax rate in September.

Ector County ISD Maximum Compressed Tax Rate Based on April 2024 estimated values for Fiscal Year 2024-2025 as of 6/3/24

68901	ECTOR COUNTY ISD
TY 2023 Value Lost to the Local Optional Homestead Exemption	\$1,209,699,330
TY 2023 Comptroller Certified School District Taxable Value for M&O Purposes (T2)	\$18,351,234,763
TY 2023 Chief Appraiser's July 25th Certified Taxable Property Values from the Certified Appraisal Roll (\$1,00K HSE)	\$18,054,865,100
TY 2024 Chief Appraiser's July 25th Certified Taxable Property Values from the Certified Appraisal Roll (\$1,00K HSE)	\$17,582,027,735
CAD Value Growth (calculated)	-2.62%
TY 2024 Property Value No Longer Subject to a Limitation on Appraised Value under Chapter 313, Tax Code	\$0
TY 2024 Property Value No Longer Subject to a Limitation on Appraised Value under Chapter 311, Tax Code	\$0
Total Exemption expiry (E) (per TEC §48.2551 (a))	\$0
Growth Net of Expiring Chapter 313 or 311 Agreements (calculated)	-2.62%
TY 2024 Local Optional Homestead Exemption Value Loss	\$1,285,087,100
Local Optional Homestead Exemption Value Change (calculated)	\$75,387,770
Estimated TY 2024 Comptroller Certified School District Value for M&O purposes (T2)	\$17,977,704,283
Prior Year (TY 2023) Maximum Compressed Tax Rate (MCR)	0.6213
Local Preliminary MCR = (1.025 ((TY 2023 DPV+E) * PYMCR)) / TY 2024	0.6213
TY 2024 State Compression Percentage (lesser of PY State MCR or 0.6880 * (1.025/1.0287) - 0)	0.6855
TEC §48.2552 TY 2024 Limitation on Maximum Compressed Tax Rate (0.6855 * 0.9)	0.6169
MCR (lesser of state or local compression) (greater of local compression limitation under TEC §48.2552)	0.6213

Texas Administrative Code	
TITLE 19	EDUCATION
PART 2	TEXAS EDUCATION AGENCY
CHAPTER 61	SCHOOL DISTRICTS
SUBCHAPTER AA	COMMISSIONER'S RULES ON SCHOOL FINANCE
RULE §61.1000	Maximum Compressed Tax Rate Calculation and Data Collection

- 1) Compressed Tax Rate (MCR)
- 2) Plus: Greater of (A) or (B):
 - (A) Enrichment Tax Rate for Preceding Year
 - Less: Compression of Copper Pennies
 - (B) \$0.05
- 3) M&O "Voter-Approval" (Rollback) Rate
- (4) Plus Debt Rate
- (5) Total Maximum Rate Without TRE (#3 + #4)

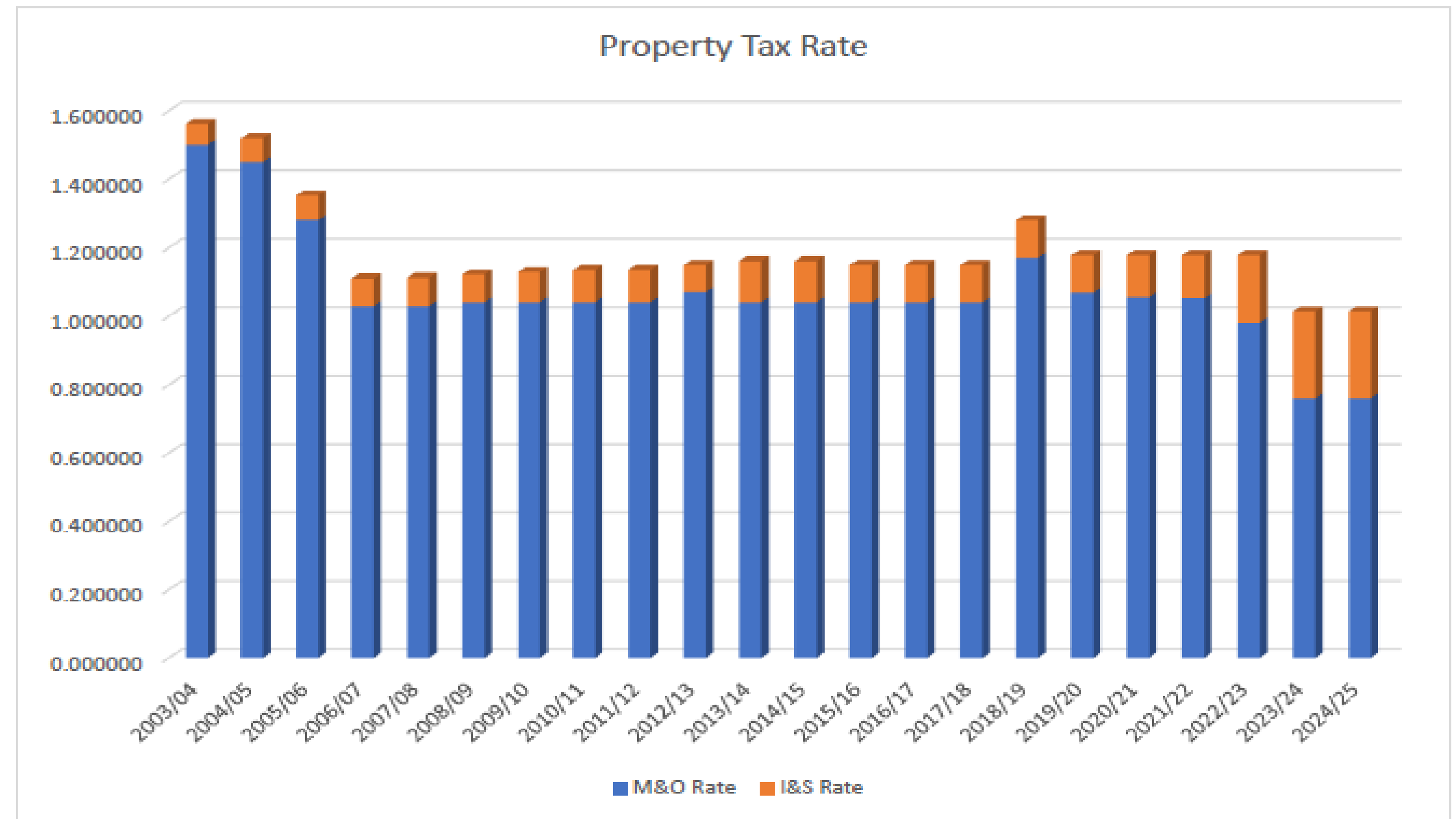
88th Legislature	
SS #2	2024-25
	0.6213
0.1383	
0.0000	
0.1383	
0.0500	0.1383
	0.7596
	0.2544
	1.0140

Ector County ISD
 Tax Rate History
 Per \$100 valuation

Required by Section 26.16 Texas Tax Code



Fiscal Year	M&O Rate	I&S Rate	Total Tax Rate	Change
2003/04	1.500000	0.061000	1.561000	
2004/05	1.450000	0.069200	1.519200	-2.68%
2005/06	1.280000	0.072500	1.352500	-10.97%
2006/07	1.030000	0.080000	1.110000	-17.93%
2007/08	1.030000	0.082000	1.112000	0.18%
2008/09	1.040000	0.082000	1.122000	0.90%
2009/10	1.040000	0.088600	1.128600	0.59%
2010/11	1.040000	0.095000	1.135000	0.57%
2011/12	1.040000	0.095000	1.135000	0.00%
2012/13	1.070000	0.079500	1.149500	1.28%
2013/14	1.040000	0.121000	1.161000	1.00%
2014/15	1.040000	0.121000	1.161000	0.00%
2015/16	1.040000	0.110000	1.150000	-0.95%
2016/17	1.040000	0.110000	1.150000	0.00%
2017/18	1.040000	0.109570	1.149570	-0.04%
2018/19	1.170000	0.109570	1.279570	11.31%
2019/20	1.068350	0.109570	1.177920	-7.94%
2020/21	1.054700	0.123220	1.177920	0.00%
2021/22	1.051700	0.126220	1.177920	0.00%
2022/23	0.981000	0.196920	1.177920	0.00%
2023/24	0.759600	0.254400	1.014000	-13.92%
2024/25	0.759600	0.254400	1.014000	0.00%



Proposed Tax Rate compared to prior year

- The total tax rate is the same as the prior year. ✓
- The M&O tax rate is the same. ✓
- The I&S tax rate is the same. ✓
- The total tax rate is at or below the voter approval rate. ✓
- The total tax rate is at or under the maximum tax rate allowed without a tax rate election. ✓
- The M&O tax rate is at or below the voter approval/rollback/no new revenue tax rate. ✓
- The I&S tax rate is at or below the allowable to cover bond costs. ✓

Note: The final tax rate will be proposed and adopted after the certified values are received in July. (Texas Tax Code 26.05). TEA will provide the maximum tax rate in August and all will be presented in the September 2024 board meeting.



Ector County ISD

Budget & Tax Rate Hearing

2024 – 2025



Ector County Independent School District

Action Page

TO: Board of Trustees
FROM: Deborah Ottmers, Chief Financial Officer
SUBJECT: **ADOPTION OF 2024-2025 OFFICIAL BUDGET**
DATE: June 18, 2024

The 2024-2025 Official Budget is presented for adoption.

Administrative Recommendation:

Adoption of the 2024-2025 Official Budget.

“I move that the ECISD Board of Trustees approve the adoption of the 2024-2025 Official Budget as presented in accordance with the Texas Education Code Section 44 and the Texas Tax Code Chapter 26. The Official Budget includes the General Fund, the School Nutrition Fund, and the Debt Service Fund.”

Year Ended
June 30, 2025

BUDGET
SCHOOL YEAR
2024-2025

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT



OUR students...THE future

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DRAFT

SECTION I

BOARD INFORMATION

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT

BOARD OF TRUSTEES

President - Chris Stanley
Position 4
Term Expires 2025

Vice-President - Tammy Hawkins
Position 6
Term Expires 2027

Secretary - Dr. Steve Brown
Position 5
Term Expires 2025

Dawn Miller
Position 1
Term Expires 2027

Delma Abalos
Position 2
Term Expires 2025

Wayne Woodall
Position 3
Term Expires 2027

Bob Thayer
Position 7
Term Expires 2025

DRAFT

SECTION II

BUDGET SUMMARIES



**ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
REVENUES, APPROPRIATIONS AND OTHER FINANCING SOURCES
REQUIRED BUDGETS TO ADOPT
2024-2025**

		<u>GENERAL FUND</u>	<u>SCHOOL NUTRITION FUND</u>	<u>DEBT SERVICE FUND</u>	<u>TOTAL</u>
<u>Codes</u>		<u>2024-2025 PROPOSED BUDGET</u>	<u>2024-2025 PROPOSED BUDGET</u>	<u>2024-2025 PROPOSED BUDGET</u>	<u>2024-2025 PROPOSED BUDGET</u>
REVENUES					
5700	Local and Intermediate	147,226,062	702,700	46,249,195	194,177,957
5800	State	186,521,938	434,000	-	186,955,938
5900	Federal	3,500,000	19,140,615	-	22,640,615
	Total - All Revenues	<u>337,248,000</u>	<u>20,277,315</u>	<u>46,249,195</u>	<u>403,774,510</u>
APPROPRIATIONS					
11	Instruction	200,591,101	-	-	200,591,101
12	Instructional Resources and Media Services	2,080,846	-	-	2,080,846
13	Curriculum and Staff Development	9,812,543	-	-	9,812,543
21	Instructional Leadership	5,236,712	-	-	5,236,712
23	School Leadership	19,788,203	-	-	19,788,203
31	Guidance, Counseling and Evaluation Services	16,622,717	-	-	16,622,717
32	Social Work Services	1,898,930	-	-	1,898,930
33	Health Services	3,206,566	-	-	3,206,566
34	Student Transportation	10,848,013	-	-	10,848,013
35	Food Services	-	20,327,315	-	20,327,315
36	Co/Extra Curricular Activities	8,062,579	-	-	8,062,579
41	General Administration	8,517,284	-	-	8,517,284
51	Plant Maintenance and Operations	36,845,955	-	-	36,845,955
52	Security and Monitoring Services	8,225,177	-	-	8,225,177
53	Data Processing Services	9,325,521	-	-	9,325,521
61	Community Services	1,511,998	-	-	1,511,998
71	Debt Services	1,388,000	-	16,849,195	18,237,195
81	Facilities Acquisition and Construction	3,000,000	-	-	3,000,000
92	Recapture Payment to state	-	-	-	-
93	Recapture Incremental Costs	-	-	-	-
99	Intergovernmental Charges	2,260,855	-	-	2,260,855
	Total - All Appropriations	<u>349,223,000</u>	<u>20,327,315</u>	<u>16,849,195</u>	<u>386,399,510</u>
OTHER FINANCING SOURCES/(USES)					
7000	Other Financing Sources	500,000	50,000	-	550,000
8000	Other Financing Uses	525,000	-	-	525,000
	Total - Other Financing Sources (Uses)	<u>25,000</u>	<u>50,000</u>	<u>-</u>	<u>25,000</u>
	Excess (Deficiency) of Revenues and Other Financing Sources over Appropriations	<u>(12,000,000)</u>	<u>-</u>	<u>29,400,000</u>	<u>17,400,000</u>
	Fund Balance Beginning (Estimated)	100,504,112	7,166,340	16,820,602	124,491,054
		<u>(12,000,000)</u>	<u>-</u>	<u>29,400,000</u>	<u>17,400,000</u>
3000	Fund Balance Ending (Estimated)	<u>88,504,112</u>	<u>7,166,340</u>	<u>46,220,602</u>	<u>141,891,054</u>

**Ector County Independent School District
General Operating Fund 199
Adopted Budget by Function and Object
for Fiscal Year 2024 - 2025
at June 18, 2024**



Object Code	Estimated Revenue	Per Enrolled 33,500	2024 - 2025 Budget	
5700	Local Revenue	\$ 4,395	\$ 147,226,062	(Includes property tax collections which are based on CURRENT YEAR estimated valuations)
5800	State Revenue	\$ 5,568	\$ 186,521,938	
5900	Federal Revenue	\$ 104	\$ 3,500,000	
	Total Revenues		\$ 337,248,000	
7900	Other Sources	\$ 15	\$ 500,000	
Total Estimated Revenue & Other Sources		\$ 10,082	\$ 337,748,000	

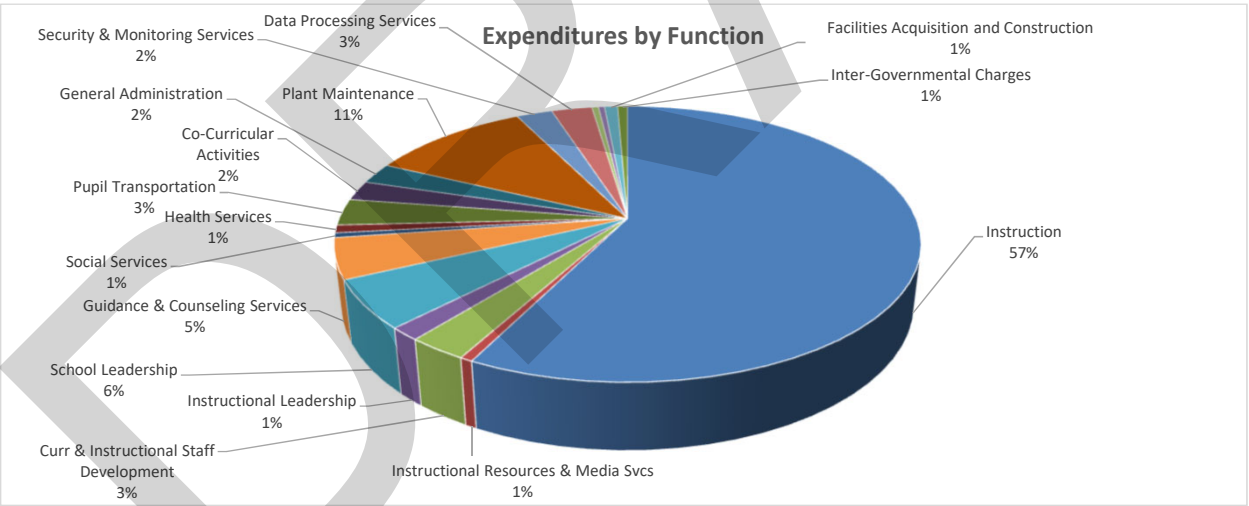
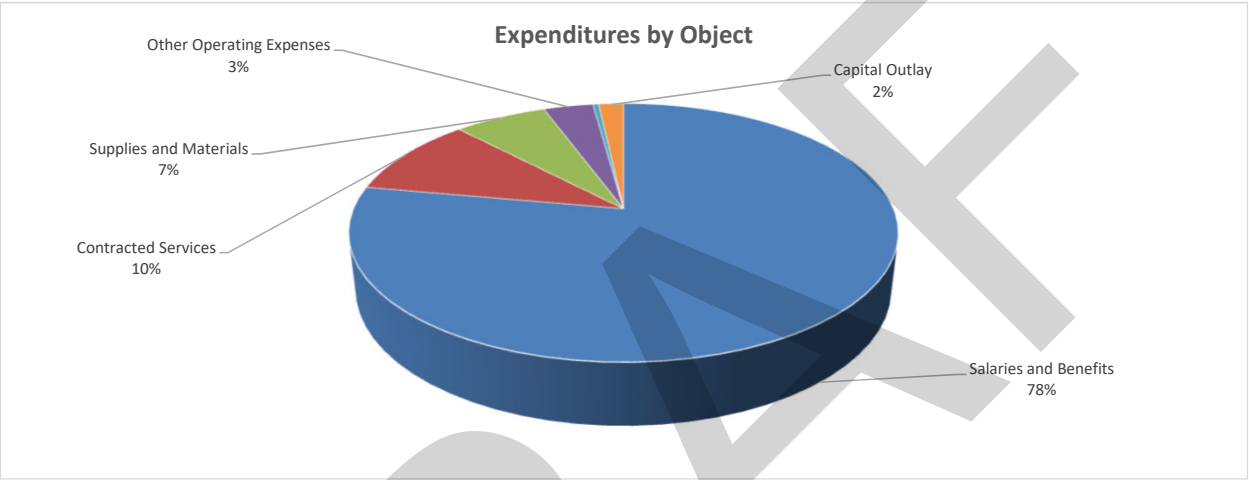
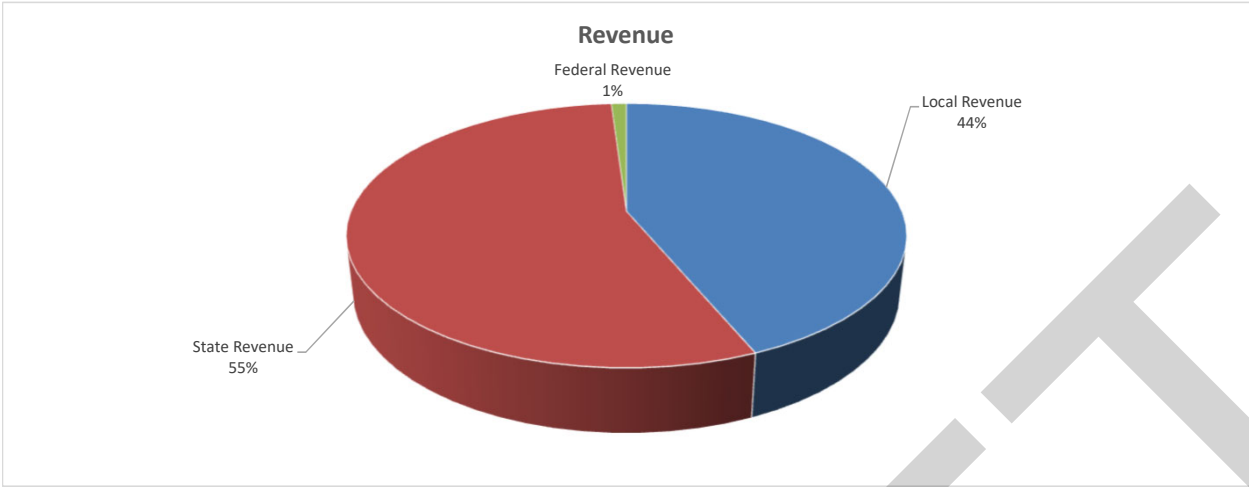
Function Code	Budgeted Expenditures	%	Per Enrolled 33,500	Totals	Payroll 6100	Services 6200	Supplies 6300	Travel/Misc 6400	Debt 6500	Capital Exp 6600
11	Instruction	57%	\$ 5,988	\$ 200,591,101	\$ 175,250,918	\$ 11,122,589	\$ 12,695,103	\$ 1,224,491	\$ -	\$ 298,000
12	Instructional Resources & Media	1%	\$ 62	\$ 2,080,846	\$ 1,846,646	\$ 42,300	\$ 99,900	\$ 60,000	\$ -	\$ 32,000
13	Curr & Instructional Staff Develop	3%	\$ 293	\$ 9,812,543	\$ 7,619,498	\$ 1,040,290	\$ 429,250	\$ 714,505	\$ -	\$ 9,000
21	Instructional Leadership	1%	\$ 156	\$ 5,236,712	\$ 4,468,139	\$ 158,794	\$ 294,569	\$ 305,210	\$ -	\$ 10,000
23	School Leadership	6%	\$ 591	\$ 19,788,203	\$ 18,353,628	\$ 199,900	\$ 833,812	\$ 382,863	\$ -	\$ 18,000
31	Guidance & Counseling Services	5%	\$ 496	\$ 16,622,717	\$ 13,929,444	\$ 913,620	\$ 1,651,133	\$ 127,020	\$ -	\$ 1,500
32	Social Services	1%	\$ 57	\$ 1,898,930	\$ 1,166,440	\$ 688,670	\$ 13,540	\$ 27,280	\$ -	\$ 3,000
33	Health Services	1%	\$ 96	\$ 3,206,566	\$ 3,110,401	\$ 16,900	\$ 49,440	\$ 28,825	\$ -	\$ 1,000
34	Pupil Transportation	3%	\$ 324	\$ 10,848,013	\$ 7,284,629	\$ 278,500	\$ 1,563,800	\$ 314,084	\$ -	\$ 1,407,000
36	Co-Curricular Activities	2%	\$ 241	\$ 8,062,579	\$ 3,681,179	\$ 1,056,000	\$ 422,250	\$ 2,895,150	\$ -	\$ 8,000
41	General Administration	2%	\$ 254	\$ 8,517,284	\$ 5,881,217	\$ 1,408,280	\$ 262,590	\$ 947,197	\$ -	\$ 18,000
51	Plant Maintenance	11%	\$ 1,100	\$ 36,845,955	\$ 16,994,725	\$ 12,080,700	\$ 2,851,080	\$ 4,752,450	\$ -	\$ 167,000
52	Security & Monitoring Services	2%	\$ 246	\$ 8,225,177	\$ 6,043,200	\$ 470,550	\$ 559,149	\$ 71,278	\$ -	\$ 1,081,000
53	Data Processing Services	3%	\$ 278	\$ 9,325,521	\$ 4,887,728	\$ 3,164,694	\$ 1,005,600	\$ 232,499	\$ -	\$ 35,000
61	Community Services	0%	\$ 45	\$ 1,511,998	\$ 1,304,348	\$ 45,200	\$ 63,350	\$ 97,600	\$ -	\$ 1,500
71	Debt Service	0%	\$ 41	\$ 1,388,000	\$ -	\$ -	\$ -	\$ -	\$ 1,388,000	\$ -
81	Facilities Acquisition and Construc	1%	\$ 90	\$ 3,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,000,000
91	Recapture Payment to state	0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
92	Recapture Incremental Costs	0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
93	Shared Service Arrangement	0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
99	Inter-Governmental Charges	1%	\$ 67	\$ 2,260,855	\$ -	\$ 2,260,855	\$ -	\$ -	\$ -	\$ -
	Total Budgeted Expenditures	100%	10,425	\$ 349,223,000	\$ 271,822,140	\$ 34,947,842	\$ 22,794,566	\$ 12,180,452	\$ 1,388,000	\$ 6,090,000
00-8XXX	Other Uses		\$ 16	525,000	77.8%	10.0%	6.5%	3.5%	0.4%	1.7%
	Total Exp & Operating Transfer Out		\$ 10,440	349,748,000						

Estimated Increase (Decrease) to Fund Balance **\$ (12,000,000)**

Expenditure Object Code Summary

6100	Salaries and Benefits	\$ 8,114	\$ 271,822,140		
6200	Contracted Services	\$ 1,043	\$ 34,947,842	(includes recapture obj 6224 if any and lobbying obj 6214)	\$ 4,000
6300	Supplies and Materials	\$ 680	\$ 22,794,566		
6400	Other Operating Expenses	\$ 364	\$ 12,180,452	(includes statutorily required postings in newspaper obj 6491)	\$ 16,700
6500	Debt Service	\$ 41	\$ 1,388,000		
6600	Capital Outlay	\$ 182	\$ 6,090,000		
8900	Other Uses	\$ 16	\$ 525,000		
	Total Exp & Operating Transfer Out	\$ 10,440	\$ 349,748,000		
			\$ -		

Estimated Fund Balance at of 6/30/24 **\$ 100,504,112**
Estimated Fund Balance at of 6/30/25 **\$ 88,504,112**
Estimated Change in Fund Balance **\$ (12,000,000)**

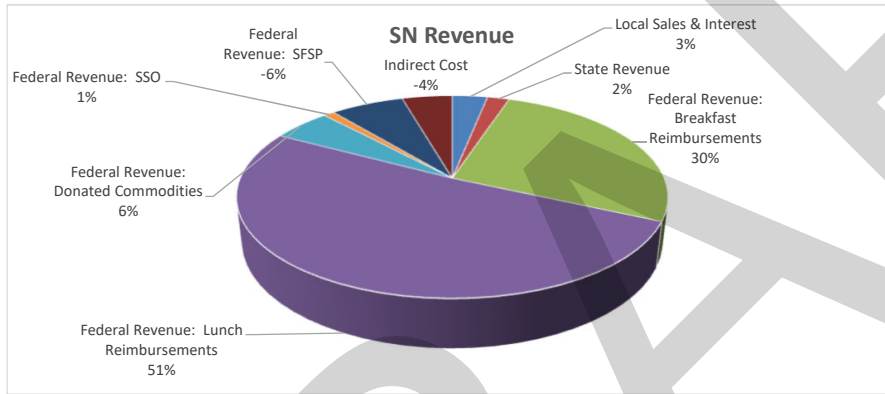


**Ector County Independent School District
 School Nutrition Fund 240
 Statement of Revenues and Expenditures
 Budget 2024/2025
 as of 6/18/24**



REVENUE

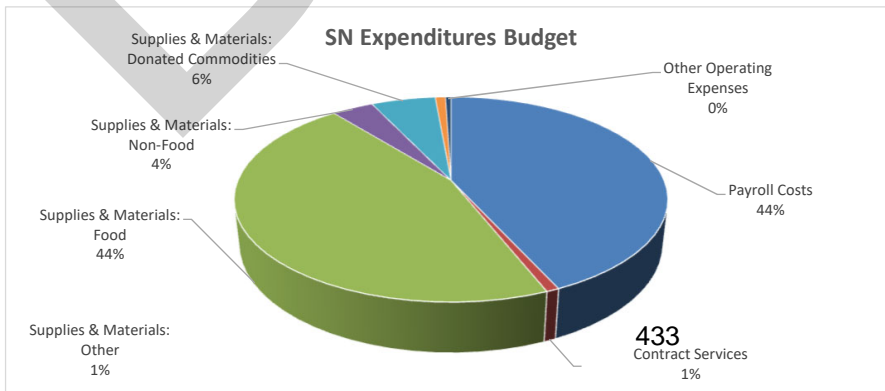
Object Code	Revenue	Beginning/ Original Budget	%	Per Enrolled 33,500
5700	Local Sales & Interest	\$ 702,700	3%	
5800	State Revenue	\$ 434,000	2%	
5921	Federal Revenue: Breakfast Reimbursements	\$ 5,932,000	29%	
5922	Federal Revenue: Lunch Reimbursements	\$ 11,377,300	56%	
5923	Federal Revenue: Donated Commodities	\$ 1,159,235	6%	
5929	Federal Revenue: SSO	\$ 213,000	1%	
5939	Federal Revenue: SFSP	\$ 1,459,080	7%	
5929-01	Indirect Cost	\$ (1,000,000)	-5%	
Total Revenue		\$ 20,277,315	100%	\$ 605
7900	Other Sources	\$ 50,000		\$ 1
Total Estimated Revenue & Other Sources		\$ 20,327,315		\$ 607



EXPENDITURES

Object Code	Fn Code	Expenditure	Beginning/ Original Budget	%	Per Enrolled 33,500
6100	35	Payroll Costs	\$ 8,732,859	43%	
6200	35	Contracted Services	\$ 166,000	1%	
6341	35	Supplies & Materials: Food	\$ 9,162,721	45%	
6342	35	Supplies & Materials: Non-Food	\$ 750,000	4%	
6344	35	Supplies & Materials: Donated Commodities	\$ 1,159,235	6%	
63xx	35	Supplies & Materials: Other	\$ 185,000	1%	
6400	35	Other Operating Expenses	\$ 101,500	1%	
		Total Expenditures	\$ 20,257,315	100%	\$ 605
6600		Capital Outlay	\$ 70,000		\$ 2
Total Expenditures			\$ 20,327,315		\$ 607

Estimated Fund Balance at of 6/30/24 \$ -
 Estimated Fund Balance at of 6/30/25 \$ 7,166,340
 Estimated Change in Fund Balance \$ -

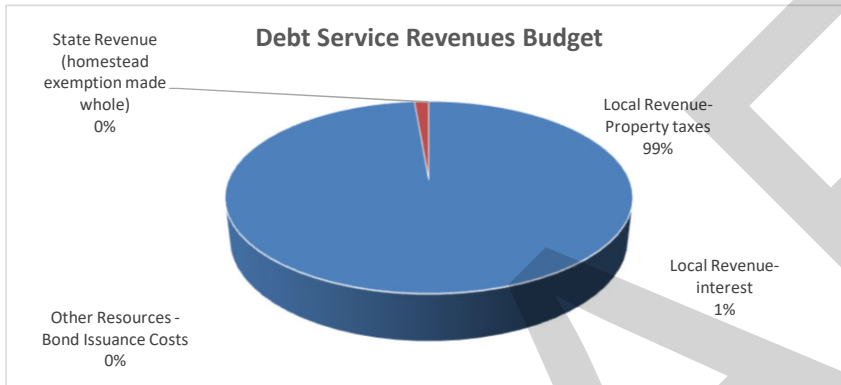


**Ector County Independent School District
Debt Service Fund 599
Revenues and Expenditures
Budget FY 2024/25
at 6/18/24**



REVENUE

Object Code	Revenue	Beginning/ Original Budget	%	Per Enrolled 33,500
571x	Local Revenue-Property taxes	\$ 45,624,195	99%	
574x	Local Revenue-interest	\$ 625,000	1%	
5800	State Revenue (homestead exemption made whole)	\$ -	0%	
7900	Other Resources - Bond Issuance Costs	\$ -	0%	
Total Revenue		\$ 46,249,195	100%	\$ 1,381



EXPENDITURES

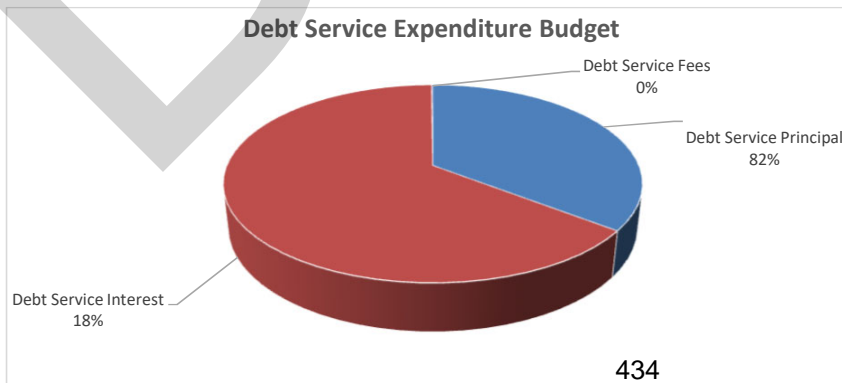
Object Code	Expenditure	Beginning/ Original Budget	%	Per Enrolled 33,500
6511	Debt Service Principal	\$ 5,965,000	35%	
6521	Debt Service Interest	\$ 10,864,047	64%	
6524	Debt Service - Bond Issuance Costs	\$ -	0%	
6599	Debt Service Fees	\$ 20,148	0%	
8900	Debt Service - Bond Issuance Costs	\$ -	0%	
Total Expenditures - Function 71		\$ 16,849,195	100%	\$ 503
		\$ 29,400,000		

Net Change in Fund Balance

Estimated Fund Balance at of 6/30/24	\$ 16,820,602	For payments in 2024/2025
Estimated Fund Balance at of 6/30/25	\$ 46,220,602	For payments beginning 1.5 months later in August
Estimated Change in Fund Balance	<u>\$ 29,400,000</u>	

Notes

Debt Service payments are due in Feb and August of each year.
Fund Balance will be used to make August principal and interest payments in August 2025.



**ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
COMPARISON OF CURRENT AND PROPOSED APPROPRIATIONS
2024-2025**

Campus / Department	Campus/Department Name	2024 Adopted Budget	Student Count	Per Pupil	2025 Proposed Budget	Student Count	Per Pupil
002	ODESSA HIGH SCHOOL	\$ 25,549,452	3874	\$ 6,595	\$ 24,424,928	3772	\$ 6,475
61		\$ 22,444,257			\$ 22,071,057		
62		\$ 1,085,000			\$ 914,050		
63		\$ 1,236,485			\$ 698,547		
64		\$ 783,710			\$ 726,274		
66					\$ 15,000		
003	PERMIAN HIGH SCHOOL	\$ 26,012,651	3978	\$ 6,539	\$ 25,025,717	4128	\$ 6,062
61		\$ 23,225,092			\$ 22,745,451		
62		\$ 1,096,375			\$ 920,000		
63		\$ 930,384			\$ 669,468		
64		\$ 760,800			\$ 690,798		
004	ALTERNATIVE EDUCATION CENTER	\$ 1,744,173	129	\$ 13,521	\$ 1,681,624	100	\$ 16,816
61		\$ 1,692,923			\$ 1,644,380		
62		\$ -			\$ 1,200		
63		\$ 30,500			\$ 21,844		
64		\$ 20,750			\$ 14,200		
005	YOUTH CENTER	\$ 212,315	18	\$ 11,795	\$ 196,979	15	\$ 13,132
61		\$ 127,315			\$ 116,867		
62		\$ 70,000			\$ 70,000		
63		\$ 13,000			\$ 9,912		
64		\$ 2,000			\$ 200		
009	STEM ACADEMY	\$ 7,700,000	766	\$ 10,052	\$ 7,850,000	743	\$ 10,565
61		\$ 4,000,000			\$ 4,150,000		
62		\$ 3,700,000			\$ 3,700,000		
011	GEORGE HW BUSH NEW TECH ODESSA	\$ 2,930,632	460	\$ 6,371	\$ 2,488,884	448	\$ 5,556
61		\$ 2,527,384			\$ 2,132,910		
62		\$ 156,000			\$ 156,900		
63		\$ 151,720			\$ 127,724		
64		\$ 95,528			\$ 71,350		
014	ODESSA CAREER & TECHNICAL ECHS	\$ 732,890	358	\$ 2,047	\$ 2,490,836	395	\$ 6,306
61		\$ 41,906			\$ 1,858,490		
62		\$ 486,200			\$ 500,100		
63		\$ 186,764			\$ 111,450		
64		\$ 18,020			\$ 20,796		
015	ODESSA COLLEGIATE ACADEMY	\$ 763,283	429	\$ 1,779	\$ 2,276,979	460	\$ 4,950
61		\$ 56,676			\$ 1,764,129		
62		\$ 574,200			\$ 464,700		
63		\$ 91,307			\$ 25,300		
64		\$ 41,100			\$ 22,850		
042	BONHAM MIDDLE SCHOOL	\$ 7,489,550	867	\$ 8,638	\$ 5,791,385	871	\$ 6,649
61		\$ 7,239,163			\$ 5,602,042		
62		\$ 52,225			\$ 29,050		
63		\$ 155,212			\$ 124,829		
64		\$ 42,950			\$ 35,464		
043	BOWIE MIDDLE SCHOOL	\$ 6,721,138	914	\$ 7,354	\$ 6,655,159	872	\$ 7,632
61		\$ 6,425,276			\$ 6,396,332		
62		\$ 106,650			\$ 109,113		
63		\$ 145,257			\$ 107,946		
64		\$ 43,955			\$ 41,768		
044	CROCKETT MIDDLE SCHOOL	\$ 7,387,783	1036	\$ 7,131	\$ 6,715,520	1021	\$ 6,577
61		\$ 7,114,156			\$ 6,445,036		
62		\$ 48,750			\$ 48,187		
63		\$ 187,177			\$ 185,697		
64		\$ 37,700			\$ 36,600		
045	WILSON YOUNG MOH MIDDLE SCHOOL	\$ 7,298,031	1245	\$ 5,862	\$ 7,186,005	1193	\$ 6,023
61		\$ 7,010,216			\$ 6,941,560		
62		\$ 54,875			\$ 52,187		
63		\$ 205,190			\$ 166,524		
64		\$ 27,750			\$ 25,734		
046	NIMITZ MIDDLE SCHOOL	\$ 8,612,949	1303	\$ 6,610	\$ 7,751,110	1312	\$ 5,908
61		\$ 8,286,074			\$ 7,470,815		
62		\$ 50,975			\$ 51,750		
63		\$ 246,975			\$ 199,906		
64		\$ 28,925			\$ 28,639		
047	ECTOR MIDDLE SCHOOL	\$ 14,116,000	1384	\$ 10,199	\$ 8,160,650	1373	\$ 5,944
61		\$ -			\$ 7,836,173		
62		\$ 14,100,000			\$ 58,875		
63		\$ 13,500			\$ 225,602		
64		\$ 2,500			\$ 40,000		

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
COMPARISON OF CURRENT AND PROPOSED APPROPRIATIONS
2024-2025

101	ALAMO ELEMENTARY SCHOOL	\$ 1,999,924	317	\$ 6,309	\$ 2,086,348	348	\$ 5,995
61		\$ 1,942,192			\$ 1,991,227		
62		\$ 1,800			\$ 5,100		
63		\$ 55,432			\$ 49,621		
64		\$ 500			\$ 40,400		
102	AUSTIN ELEMENTARY SCHOOL	\$ 3,452,463	537	\$ 6,429	\$ 3,269,792	553	\$ 5,913
61		\$ 3,342,845			\$ 3,166,977		
62		\$ 5,770			\$ 9,860		
63		\$ 67,848			\$ 52,718		
64		\$ 36,000			\$ 40,237		
103	BURLESON ELEMENTARY SCHOOL	\$ 2,641,407	413	\$ 6,396	\$ -	0	\$ -
61		\$ 2,533,806			\$ -		
62		\$ 42,780			\$ -		
63		\$ 59,321			\$ -		
64		\$ 5,500			\$ -		
104	BURNET ELEMENTARY SCHOOL	\$ 2,506,639	389	\$ 6,444	\$ 1,897,480	340	\$ 5,581
61		\$ 2,437,022			\$ 1,852,495		
62		\$ 7,000			\$ 5,500		
63		\$ 59,617			\$ 34,813		
64		\$ 3,000			\$ 4,672		
105	CAMERON ELEMENTARY SCHOOL	\$ 3,786,397	613	\$ 6,177	\$ 3,652,180	590	\$ 6,190
61		\$ 3,670,320			\$ 3,544,795		
62		\$ -			\$ 200		
63		\$ 101,077			\$ 91,758		
64		\$ 15,000			\$ 15,427		
106	CARVER EARLY EDUCATION CENTER	\$ 2,549,809	363	\$ 7,024	\$ 2,495,503	357	\$ 6,990
61		\$ 2,489,478			\$ 2,441,893		
62		\$ 300			\$ 700		
63		\$ 50,031			\$ 43,410		
64		\$ 10,000			\$ 9,500		
107	DOWLING ELEMENTARY SCHOOL	\$ 3,383,111	440	\$ 7,689	\$ 3,399,932	594	\$ 5,724
61		\$ 3,310,105			\$ 3,305,573		
62		\$ 500			\$ 12,500		
63		\$ 72,506			\$ 81,159		
64		\$ -			\$ 700		
110	GOLIAD ELEMENTARY SCHOOL	\$ 3,416,270	606	\$ 5,637	\$ 3,100,739	616	\$ 5,034
61		\$ 3,318,834			\$ 3,006,574		
62		\$ -			\$ -		
63		\$ 92,186			\$ 88,865		
64		\$ 5,250			\$ 5,300		
111	GONZALES ELEMENTARY SCHOOL	\$ 2,787,434	497	\$ 5,609	\$ 2,572,284	477	\$ 5,393
61		\$ 2,712,576			\$ 2,507,994		
62		\$ -			\$ -		
63		\$ 69,858			\$ 59,990		
64		\$ 5,000			\$ 4,300		
112	HAYS ELEMENTARY MAGNET SCHOOL	\$ 2,853,475	460	\$ 6,203	\$ 2,805,086	497	\$ 5,644
61		\$ 2,778,737			\$ 2,733,197		
62		\$ -			\$ 400		
63		\$ 61,238			\$ 59,089		
64		\$ 13,500			\$ 12,400		
113	SAM HOUSTON ELEMENTARY SCHOOL	\$ 2,522,328	392	\$ 6,435	\$ 2,667,953	412	\$ 6,476
61		\$ 2,455,987			\$ 2,603,414		
62		\$ -			\$ -		
63		\$ 59,341			\$ 52,539		
64		\$ 7,000			\$ 12,000		
114	IRELAND ELEMENTARY MAGNET SCH	\$ 2,425,398	446	\$ 5,438	\$ 2,191,653	424	\$ 5,169
61		\$ 2,361,981			\$ 2,136,042		
62		\$ 3,000			\$ 4,000		
63		\$ 53,417			\$ 49,611		
64		\$ 7,000			\$ 2,000		
115	LAMAR EARLY EDUCATION CENTER	\$ 3,004,818	491	\$ 6,120	\$ 3,042,122	436	\$ 6,977
61		\$ 2,922,793			\$ 2,977,173		
62		\$ 500			\$ 1,500		
63		\$ 71,025			\$ 50,349		
64		\$ 10,500			\$ 13,100		
116	MILAM ELEMENTARY MAGNET SCHOOL	\$ 3,830,689	642	\$ 5,967	\$ 3,683,129	605	\$ 6,088
61		\$ 3,715,903			\$ 3,581,757		
62		\$ 800			\$ 600		
63		\$ 104,486			\$ 89,872		
64		\$ 9,500			\$ 10,900		

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
COMPARISON OF CURRENT AND PROPOSED APPROPRIATIONS
2024-2025

117	PEASE ELEMENTARY SCHOOL	\$	3,440,832	589	\$	5,842	\$	3,504,113	579	\$	6,052
61		\$	3,353,642				\$	3,415,317			
62		\$	5,000				\$	3,800			
63		\$	75,690				\$	72,096			
64		\$	6,500				\$	12,900			
118	REAGAN ELEMENTARY MAGNET SCHOO	\$	3,555,292	625	\$	5,688	\$	3,536,053	662	\$	5,341
61		\$	3,463,216				\$	3,449,867			
62		\$	-				\$	-			
63		\$	87,076				\$	81,586			
64		\$	5,000				\$	4,600			
119	ROSS ELEMENTARY SCHOOL	\$	2,829,187	408	\$	6,934	\$	2,869,968	422	\$	6,801
61		\$	2,769,315				\$	2,811,038			
62		\$	1,000				\$	5,000			
63		\$	49,597				\$	44,036			
64		\$	9,275				\$	9,894			
121	SAN JACINTO ELEMENTARY SCHOOL	\$	2,394,020	396	\$	6,046	\$	3,158,100	575	\$	5,492
61		\$	2,329,446				\$	3,072,837			
62		\$	-				\$	-			
63		\$	53,074				\$	62,064			
64		\$	11,500				\$	23,199			
122	TRAVIS ELEMENTARY MAGNET SCHOO	\$	2,362,580	300	\$	7,875	\$	-	0	\$	-
61		\$	2,307,466				\$	-			
62		\$	-				\$	-			
63		\$	47,114				\$	-			
64		\$	8,000				\$	-			
123	ZAVALA ELEMENTARY MAGNET SCHOO	\$	3,071,835	448	\$	6,857	\$	3,875,725	728	\$	5,324
61		\$	2,989,655				\$	3,749,363			
62		\$	-				\$	500			
63		\$	73,180				\$	114,562			
64		\$	9,000				\$	11,300			
124	NOEL ELEMENTARY MAGNET SCHOOL	\$	2,601,972	451	\$	5,769	\$	3,181,354	620	\$	5,131
61		\$	2,534,039				\$	3,093,029			
62		\$	1,000				\$	7,800			
63		\$	60,698				\$	66,760			
64		\$	6,235				\$	13,765			
125	BLANTON ELEMENTARY SCHOOL	\$	3,012,591	502	\$	6,001	\$	2,646,934	522	\$	5,071
61		\$	2,938,079				\$	2,572,199			
62		\$	-				\$	-			
63		\$	63,512				\$	58,235			
64		\$	11,000				\$	16,500			
126	FLY ELEMENTARY SCHOOL	\$	5,657,787	998	\$	5,669	\$	5,495,442	1089	\$	5,046
61		\$	5,497,254				\$	5,329,013			
62		\$	1,500				\$	2,400			
63		\$	143,533				\$	147,529			
64		\$	15,500				\$	16,500			
127	BLACKSHEAR ELEMENTARY MAGNET S	\$	3,887,608	672	\$	5,785	\$	3,681,065	693	\$	5,312
61		\$	3,765,378				\$	3,559,732			
62		\$	2,000				\$	1,800			
63		\$	105,230				\$	103,143			
64		\$	15,000				\$	16,390			
128	JOHNSON ELEMENTARY SCHOOL	\$	3,019,673	517	\$	5,841	\$	2,664,492	510	\$	5,224
61		\$	2,936,972				\$	2,597,200			
62		\$	-				\$	9,100			
63		\$	73,201				\$	49,792			
64		\$	9,500				\$	8,400			
129	JORDAN ELEMENTARY SCHOOL	\$	4,358,774	854	\$	5,104	\$	4,267,159	886	\$	4,816
61		\$	4,238,614				\$	4,150,196			
62		\$	2,000				\$	1,300			
63		\$	105,660				\$	103,063			
64		\$	12,500				\$	12,600			
130	CAVAZOS ELEMENTARY SCHOOL	\$	4,076,565	680	\$	5,995	\$	3,335,736	674	\$	4,949
61		\$	3,970,139				\$	3,236,216			
62		\$	3,000				\$	4,500			
63		\$	93,426				\$	83,199			
64		\$	10,000				\$	11,821			
131	DOWNING ELEMENTARY SCHOOL	\$	4,337,850	817	\$	5,309	\$	3,915,435	807	\$	4,852
61		\$	4,165,950				\$	3,751,764			
62		\$	40,000				\$	44,900			
63		\$	121,900				\$	109,528			
64		\$	10,000				\$	9,243			

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
COMPARISON OF CURRENT AND PROPOSED APPROPRIATIONS
2024-2025

132	WEST ELEMENTARY SCHOOL	\$ 4,020,528	680	\$ 5,913	\$ 4,254,751	683	\$ 6,230
61		\$ 3,915,347			\$ 4,155,328		
62		\$ 1,000			\$ 900		
63		\$ 92,181			\$ 73,548		
64		\$ 12,000			\$ 24,975		
133	BUICE ELEMENTARY SCHOOL	\$ 4,132,915	843	\$ 4,903	\$ 3,876,940	822	\$ 4,716
61		\$ 4,018,491			\$ 3,778,764		
62		\$ 5,000			\$ 4,200		
63		\$ 85,724			\$ 73,573		
64		\$ 23,700			\$ 20,403		
134	ODESSA Y LEARNING CENTER	\$ 1,323,799	192	\$ 6,895	\$ 1,347,256	185	\$ 7,282
61		\$ 23,799			\$ 47,256		
62		\$ 1,300,000			\$ 1,300,000		
63		\$ -			\$ -		
64		\$ -			\$ -		
191	REGIONAL DAY SCHOOL FOR DEAF	\$ 5,723			\$ 10,185		
61		\$ 5,723			\$ 10,185		
690	TEEN PARENT SERVICES	\$ 341,333			\$ 314,280		
61		\$ 242,226			\$ 225,290		
62		\$ 50,100			\$ 50,000		
63		\$ 40,339			\$ 31,590		
64		\$ 8,668			\$ 7,400		
691	DYSLEXIA SUPPORT	\$ 3,729,547			\$ 3,655,667		
61		\$ 3,600,547			\$ 3,526,667		
62		\$ 45,000			\$ -		
63		\$ 51,000			\$ 77,500		
64		\$ 33,000			\$ 51,500		
693	ENGLISH LEARNERS SUPPORT	\$ 244,322			\$ 239,111		
61		\$ 236,322			\$ 239,111		
64		\$ 8,000			\$ -		
698	ADVANCED TECHNICAL CENTER	\$ 676,300			\$ 3,375,604		
61		\$ -			\$ 2,655,304		
62		\$ 55,500			\$ 56,200		
63		\$ 428,000			\$ 525,500		
64		\$ 192,800			\$ 138,600		
699	SUMMER SCHOOL	\$ 3,948,424			\$ 3,364,342		
61		\$ 3,132,924			\$ 2,521,642		
62		\$ 286,500			\$ 268,200		
63		\$ 274,500			\$ 326,300		
64		\$ 254,500			\$ 248,200		
701	SUPERINTENDENT OFFICE	\$ 995,432			\$ 999,349		
61		\$ 875,132			\$ 919,549		
62		\$ 59,300			\$ 15,800		
63		\$ 6,750			\$ 7,250		
64		\$ 54,250			\$ 56,750		
702	BOARD OF TRUSTEES	\$ 485,500			\$ 490,500		
62		\$ 329,600			\$ 328,600		
63		\$ 1,900			\$ 2,900		
64		\$ 154,000			\$ 159,000		
703	TAX SERVICES	\$ 2,579,382			\$ 2,728,145		
62		\$ 2,579,382			\$ 2,728,145		
704	INTERNAL AUDIT	\$ 95,121			\$ 14,382		
61		\$ 80,996			\$ 6,007		
62		\$ 2,700			\$ 3,500		
63		\$ 3,200			\$ 200		
64		\$ 8,225			\$ 4,675		
705	ECISD DEVELOPMENT OFFICE	\$ 561,213			\$ 550,548		
61		\$ 450,213			\$ 449,448		
62		\$ 16,600			\$ 25,200		
63		\$ 47,000			\$ 38,500		
64		\$ 47,400			\$ 37,400		
810	ACCELERATION ACADEMIES	\$ -			\$ 1,500,000		
62		\$ -			\$ 1,500,000		
811	DAYCARE	\$ 850,034			\$ 783,319		
61		\$ 808,034			\$ 753,319		
62		\$ -			\$ -		
63		\$ 23,000			\$ 23,000		
64		\$ 19,000			\$ 7,000		

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
COMPARISON OF CURRENT AND PROPOSED APPROPRIATIONS
2024-2025

847	POST SECONDARY EDUCATION	\$ 13,500			\$ 7,500	
61		\$ -			\$ -	
62		\$ -			\$ -	
63		\$ 7,000			\$ 2,000	
64		\$ 6,500			\$ 5,500	
848	EARLY CHILDHOOD	\$ 194,629			\$ 724,785	
61		\$ 82,944			\$ 90,195	
62		\$ 30,400			\$ 5,200	
63		\$ 64,650			\$ 609,825	
64		\$ 16,635			\$ 19,565	
849	LITERACY	\$ 190,045			\$ 238,545	
61		\$ -			\$ -	
62		\$ 129,850			\$ 209,600	
63		\$ 44,750			\$ 13,500	
64		\$ 15,445			\$ 15,445	
850	TALENT DEVELOPMENT	\$ 1,322,105			\$ 1,399,510	
61		\$ 700,355			\$ 803,910	
62		\$ 252,800			\$ 246,480	
63		\$ 301,050			\$ 270,800	
64		\$ 67,900			\$ 78,320	
851	CURRICULUM & INSTRUCTION	\$ 5,502,411			\$ 4,722,247	
61		\$ 1,603,448			\$ 1,784,425	
62		\$ 1,993,000			\$ 1,466,175	
63		\$ 1,792,763			\$ 1,383,047	
64		\$ 113,200			\$ 88,600	
852	ACCNTABILITY, ASMT, & SCHL IMP	\$ 1,962,512			\$ 1,466,433	
61		\$ 708,539			\$ 628,333	
62		\$ 203,788			\$ 187,117	
63		\$ 1,027,985			\$ 646,463	
64		\$ 22,200			\$ 4,520	
853	ECISD POLICY	\$ 68,116			\$ 67,645	
61		\$ 57,116			\$ 54,145	
62		\$ 4,800			\$ 6,800	
63		\$ 2,400			\$ 2,300	
64		\$ 3,800			\$ 4,400	
854	AVID	\$ 750,271			\$ 512,256	
61		\$ 333,836			\$ 275,021	
62		\$ 10,000			\$ 4,000	
63		\$ 291,235			\$ 165,235	
64		\$ 115,200			\$ 68,000	
855	GUIDANCE & COUNSELING	\$ 751,616			\$ 1,060,824	
61		\$ 439,293			\$ 477,051	
62		\$ 188,823			\$ 209,773	
63		\$ 67,000			\$ 334,000	
64		\$ 56,500			\$ 40,000	
856	STUDENT ASSISTANCE SERVICES	\$ 955,172			\$ 626,494	
61		\$ 635,235			\$ 525,944	
62		\$ 280,024			\$ 83,070	
63		\$ 36,033			\$ 10,600	
64		\$ 3,880			\$ 6,880	
858	CHOICE PROGRAMS	\$ 130,200			\$ 119,288	
62		\$ 74,000			\$ 85,188	
63		\$ 34,600			\$ 28,600	
64		\$ 21,600			\$ 5,500	
861	FINE ARTS DEPARTMENT	\$ 761,022			\$ 733,454	
61		\$ 301,172			\$ 416,789	
62		\$ 27,000			\$ 16,000	
63		\$ 37,000			\$ 52,300	
64		\$ 395,850			\$ 248,365	
862	PHYSICAL EDUCATION & HEALTH	\$ 101,806			\$ 98,436	
61		\$ 51,306			\$ 52,936	
62		\$ 5,000			\$ 5,000	
63		\$ 22,000			\$ 20,000	
64		\$ 23,500			\$ 20,500	
864	INFORMATION TECHNOLOGY	\$ 11,180,908			\$ 14,338,830	
61		\$ 3,420,937			\$ 3,993,408	
62		\$ 5,407,960			\$ 4,076,896	
63		\$ 2,250,111			\$ 6,183,706	
64		\$ 101,900			\$ 84,820	

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
COMPARISON OF CURRENT AND PROPOSED APPROPRIATIONS
2024-2025

871	SPECIAL EDUCATION	\$ 7,454,929			\$ 12,213,130	
61		\$ 7,005,429			\$ 10,750,130	
62		\$ 163,700			\$ 1,196,200	
63		\$ 164,750			\$ 143,800	
64		\$ 121,050			\$ 123,000	
875	BILINGUAL EDUCATION	\$ 1,523,083			\$ 1,476,255	
61		\$ 1,089,902			\$ 1,074,755	
62		\$ 216,200			\$ 263,000	
63		\$ 173,203			\$ 90,500	
64		\$ 43,778			\$ 48,000	
876	FEDERAL/TITLE PROGRAMS	\$ 236,013			\$ 181,621	
61		\$ 177,355			\$ 169,821	
63		\$ 52,108			\$ 7,300	
64		\$ 6,550			\$ 4,500	
881	ADVANCED ACADEMIC SERVICES	\$ 1,533,896			\$ 2,066,465	
61		\$ 1,034,866			\$ 1,035,070	
62		\$ 155,300			\$ 180,836	
63		\$ 202,895			\$ 714,134	
64		\$ 140,835			\$ 136,425	
882	STUDENT ADMISSIONS & TRANSFERS	\$ 107,481			\$ 98,004	
61		\$ 98,181			\$ 91,504	
62		\$ -			\$ -	
63		\$ 7,300			\$ 4,500	
64		\$ 2,000			\$ 2,000	
886	NURSING SERVICES	\$ 498,931			\$ 376,021	
61		\$ 387,252			\$ 295,706	
62		\$ 14,100			\$ 16,900	
63		\$ 74,265			\$ 49,240	
64		\$ 23,314			\$ 14,175	
889	SCHOOL LEADERSHIP	\$ 1,309,409			\$ 921,837	
61		\$ 1,084,209			\$ 721,737	
62		\$ 118,000			\$ 114,200	
63		\$ 35,000			\$ 17,200	
64		\$ 72,200			\$ 68,700	
891	CAREER & TECHNOLOGY	\$ 398,869			\$ 413,066	
61		\$ 380,669			\$ 394,866	
62		\$ -			\$ -	
63		\$ 9,900			\$ 9,900	
64		\$ 8,300			\$ 8,300	
893	STUDENT & SCHOOL SUPPORT	\$ 887,512			\$ 374,625	
61		\$ 690,262			\$ 350,375	
62		\$ 79,500			\$ 10,000	
63		\$ 108,250			\$ 5,250	
64		\$ 9,500			\$ 9,000	
894	CHOICE SCHOOL, ACCESS & SUPPRT	\$ 26,200			\$ -	
62		\$ 15,000			\$ -	
63		\$ 6,700			\$ -	
64		\$ 4,500			\$ -	
897	INSTR MATERIALS	\$ 368,228			\$ 277,171	
61		\$ 328,728			\$ 232,826	
62		\$ 1,300			\$ 11,700	
63		\$ 32,900			\$ 28,920	
64		\$ 5,300			\$ 3,725	
901	COMMUNICATIONS	\$ 530,985			\$ 587,026	
61		\$ 439,610			\$ 437,401	
62		\$ -			\$ 61,500	
63		\$ 37,250			\$ 34,800	
64		\$ 54,125			\$ 53,325	
905	ATHLETIC DEPARTMENT	\$ 2,505,355			\$ 2,490,030	
61		\$ 672,605			\$ 695,280	
62		\$ 553,000			\$ 583,000	
63		\$ 230,500			\$ 183,750	
64		\$ 1,049,250			\$ 1,028,000	
930	ASSOC SUPT - HC/OP/ATHL	\$ 301,886			\$ 294,678	
61		\$ 273,611			\$ 269,403	
62		\$ 4,000			\$ 4,000	
63		\$ 8,225			\$ 5,225	
64		\$ 16,050			\$ 16,050	

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
COMPARISON OF CURRENT AND PROPOSED APPROPRIATIONS
2024-2025

935	HUMAN RESOURCES	\$ 2,586,770			\$ 2,179,164	
61		\$ 1,683,140			\$ 1,354,574	
62		\$ 430,080			\$ 378,490	
63		\$ 60,800			\$ 50,600	
64		\$ 412,750			\$ 395,500	
952	DISTRICT POLICE DEPARTMENT	\$ 3,564,465			\$ 6,925,903	
61		\$ 2,907,273			\$ 4,783,526	
62		\$ 376,000			\$ 470,550	
63		\$ 251,944			\$ 559,149	
64		\$ 29,248			\$ 32,678	
66					\$ 1,080,000	
955	MAINTENANCE SERVICES	\$ 9,115,815			\$ 9,208,407	
61		\$ 4,686,815			\$ 4,906,357	
62		\$ 2,148,000			\$ 2,451,500	
63		\$ 2,146,750			\$ 1,845,000	
64		\$ 4,250			\$ 5,550	
66		\$ 130,000			\$ -	
960	CUSTODIAL SERVICES	\$ 2,335,167			\$ 2,531,556	
61		\$ 1,115,067			\$ 1,444,856	
62		\$ 275,000			\$ 183,000	
63		\$ 856,200			\$ 856,200	
64		\$ 2,500			\$ 2,500	
66		\$ 86,400			\$ 45,000	
962	ENERGY MANAGEMENT	\$ 6,507,430			\$ 7,268,646	
61		\$ 143,430			\$ 140,966	
62		\$ 6,352,500			\$ 7,114,800	
63		\$ 11,500			\$ 12,880	
64		\$ -			\$ -	
965	DISTRICT OPERATIONS	\$ 10,306,695			\$ 9,147,725	
61		\$ 499,795			\$ 489,825	
62		\$ 3,578,000			\$ 923,000	
63		\$ 24,000			\$ 30,000	
64		\$ 4,664,900			\$ 4,664,900	
65		\$ 40,000			\$ 40,000	
66		\$ 1,500,000			\$ 3,000,000	
970	FINANCE OFFICE	\$ 1,847,491			\$ 1,941,630	
61		\$ 1,170,223			\$ 1,335,650	
62		\$ 120,000			\$ 119,000	
63		\$ 112,500			\$ 28,500	
64		\$ 444,768			\$ 458,480	
65		\$ -			\$ -	
971	PURCHASING OFFICE	\$ 343,951			\$ 378,587	
61		\$ 281,351			\$ 318,487	
62		\$ -			\$ 850	
63		\$ 36,350			\$ 33,850	
64		\$ 26,250			\$ 25,400	
972	INFORMATION SYSTEMS	\$ 2,337,589			\$ 2,052,470	
61		\$ 1,357,339			\$ 1,436,370	
62		\$ 632,000			\$ 176,000	
63		\$ 331,000			\$ 413,100	
64		\$ 17,250			\$ 27,000	
973	RECORDS MANAGEMENT				\$ 92,767	
61					\$ 54,567	
62					\$ 700	
63					\$ 34,500	
64					\$ 3,000	
975	BUSINESS OPERATIONS WAREHOUSE	\$ 810,549			\$ 634,694	
61		\$ 440,849			\$ 492,494	
62		\$ 4,700			\$ 2,700	
63		\$ 306,200			\$ 87,000	
64		\$ 4,500			\$ 4,500	
65		\$ 54,300			\$ 48,000	
976	PAYROLL	\$ 585,434			\$ 601,017	
61		\$ 565,434			\$ 581,017	
62		\$ -			\$ -	
63		\$ 15,545			\$ 15,545	
64		\$ 4,455			\$ 4,455	
978	BENEFITS AND RISK MANAGEMENT	\$ 434,396			\$ 261,899	
61		\$ 400,896			\$ 239,799	
62		\$ 6,000			\$ 6,000	
63		\$ 15,500			\$ 10,000	
64		\$ 12,000			\$ 6,100	

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
COMPARISON OF CURRENT AND PROPOSED APPROPRIATIONS
2024-2025

986	TRANSPORTATION	\$ 9,615,414		\$ 9,611,803	
61		\$ 5,981,114		\$ 6,336,503	
62		\$ 570,500		\$ 278,500	
63		\$ 1,611,800		\$ 1,563,800	
64		\$ 52,000		\$ 33,000	
65		\$ -		\$ -	
66		\$ 1,400,000		\$ 1,400,000	
989	GENERAL DISTRICT	\$ 22,000		\$ 24,500	
62		\$ 6,800		\$ 7,800	
63		\$ 9,800		\$ 8,550	
64		\$ 5,400		\$ 8,150	
999	UNDISTRIBUTED ORG UNIT	\$ 22,641,096		\$ 29,280,124	
61		\$ 18,922,096		\$ 25,186,124	
62		\$ 314,000		\$ 314,000	
63		\$ 200,000		\$ 475,000	
64		\$ 1,455,000		\$ 1,455,000	
65		\$ 1,200,000		\$ 1,300,000	
66		\$ 550,000		\$ 550,000	
Grand Total		\$ 345,648,500		\$ 349,223,000	

Ector County ISD
Maximum Compressed Tax Rate
Based on April 2024 estimated values
for Fiscal Year 2024-2025
as of 6/3/24

68901	ECTOR COUNTY ISD
TY 2023 Value Lost to the Local Optional Homestead Exemption	\$1,209,699,330
TY 2023 Comptroller Certified School District Taxable Value for M&O Purposes (T2)	\$18,351,234,763
TY 2023 Chief Appraiser's July 25th Certified Taxable Property Values from the Certified Appraisal Roll (\$100K HSE)	\$18,054,865,100
TY 2024 Chief Appraiser's July 25th Certified Taxable Property Values from the Certified Appraisal Roll (\$100K HSE)	\$17,582,027,735
CAD Value Growth (calculated)	-2.62%
TY 2024 Property Value No Longer Subject to a Limitation on Appraised Value under Chapter 313, Tax Code	\$0
TY 2024 Property Value No Longer Subject to a Limitation on Appraised Value under Chapter 311, Tax Code	\$0
Total Exemption expiry (E) (per TEC §48.2551 (a))	\$0
Growth Net of Expiring Chapter 313 or 311 Agreements (calculated)	-2.62%
TY 2024 Local Optional Homestead Exemption Value Loss	\$1,285,087,100
Local Optional Homestead Exemption Value Change (calculated)	\$75,387,770
Estimated TY 2024 Comptroller Certified School District Value for M&O purposes (T2)	\$17,977,704,283
Prior Year (TY 2023) Maximum Compressed Tax Rate (MCR)	0.6213
Local Preliminary MCR = (1.025 ((TY 2023 DPV+E) * PYMCR)) / TY 2024	0.6213
TY 2024 State Compression Percentage (lesser of PY State MCR or 0.6880 * (1.025/1.0287) - 0)	0.6855
TEC §48.2552 TY 2024 Limitation on Maximum Compressed Tax Rate (0.6855 * 0.9)	0.6169
MCR (lesser of state or local compression) (greater of local compression limitation under TEC §48.2552)	0.6213



- 1) Compressed Tax Rate (MCR)
- 2) Plus: Greater of (A) or (B):
 - (A) Enrichment Tax Rate for Preceding Year
 - Less: Compression of Copper Pennies
 - (B) \$0.05
- 3) M&O "Voter-Approval" (Rollback) Rate
- (4) Plus Debt Rate
- (5) Total Maximum Rate Without TRE (#3 + #4)

88th Legislature	
SS #2	
2024-25	0.6213
	0.1383
	0.0000
	0.1383
	0.0500
	0.1383
	0.7596
	0.2544
443	1.0140

SECTION III

BUDGET DETAIL

ECISD 2024-2025 BUDGET BOOK

DISTRICT TOTAL:	386,399,510
11 INSTRUCTION	200,591,101
12 INSTRUCTIONAL RES & MEDIA SERVICE	2,080,846
13 CURRICULUM & STAFF DEVELOPMENT	9,812,543
21 INSTRUCTIONAL LEADERSHIP	5,236,712
23 SCHOOL LEADERSHIP	19,788,203
31 GUID, COUNS & EVALUATION SERVS	16,622,717
32 SOCIAL WORK SERVICES	1,898,930
33 HEALTH SERVICES	3,206,566
34 STUDENT TRANSPORTATION	10,848,013
35 FOOD SERVICE	20,327,315
36 CO/EXTRACURRICULAR ACTIVITIES	8,062,579
41 GENERAL ADMINISTRATION	8,517,284
51 FACILITIES MAINT & OPERATIONS	36,845,955
52 SECURITY & MONITORING SERVICES	8,225,177
53 DATA PROCESSING SERVICES	9,325,521
61 COMMUNITY SERVICES	1,511,998
71 DEBT SERVICES	18,237,195
81 FACILITIES ACQUISITION & CONST	3,000,000
99 INTERGOVERNMENTAL CHARGES	2,260,855
PAYROLL COSTS TOTAL - 61XX	280,554,999
PROFESSIONAL AND CONTRACTED SERVICES TOTAL - 62XX	35,113,842
SUPPLIES AND MATERIALS TOTAL - 63XX	34,051,522
OTHER OPERATING COSTS TOTAL - 64XX	12,281,952
DEBT SERVICES TOTAL - 65XX	18,237,195
CAPITAL OUTLAY TOTAL - 66XX	6,160,000

ECISD 2024-2025 BUDGET BOOK

002	ODESSA HIGH SCHOOL		
199	GENERAL FUND		
	11 INSTRUCTION		17,200,077
	12 INSTRUCTIONAL RES & MEDIA SERV		93,993
	13 CURRICULUM & STAFF DEVELOPMENT		350,596
	23 SCHOOL LEADERSHIP		2,145,232
	31 GUID, COUNS & EVALUATION SERVS		1,532,090
	32 SOCIAL WORK SERVICES		220,358
	33 HEALTH SERVICES		175,157
	34 STUDENT TRANSPORTATION		3,900
	36 CO/EXTRACURRICULAR ACTIVITIES		1,971,745
	51 FACILITIES MAINT & OPERATIONS		708,580
	52 SECURITY & MONITORING SERVICES		3,200
	61 COMMUNITY SERVICES		20,000
		PAYROLL COSTS - 61XX	22,071,057
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	914,050
		SUPPLIES AND MATERIALS - 63XX	698,547
		OTHER OPERATING COSTS - 64XX	726,274
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	15,000
		TOTAL FOR FUND 199 - GENERAL FUND	24,424,928
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		269,913
		PAYROLL COSTS - 61XX	269,913
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	269,913
		TOTAL FOR ORGANIZATION 002 - ODESSA HIGH SCHOOL	24,694,841

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003	PERMIAN HIGH SCHOOL		
199	GENERAL FUND		
	11 INSTRUCTION		18,233,934
	12 INSTRUCTIONAL RES & MEDIA SERV		126,796
	13 CURRICULUM & STAFF DEVELOPMENT		179,721
	23 SCHOOL LEADERSHIP		2,108,380
	31 GUID, COUNS & EVALUATION SERVS		1,372,493
	32 SOCIAL WORK SERVICES		219,399
	33 HEALTH SERVICES		110,911
	34 STUDENT TRANSPORTATION		3,300
	36 CO/EXTRACURRICULAR ACTIVITIES		1,939,929
	51 FACILITIES MAINT & OPERATIONS		722,073
	52 SECURITY & MONITORING SERVICES		5,400
	61 COMMUNITY SERVICES		3,381
		PAYROLL COSTS - 61XX	22,745,451
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	920,000
		SUPPLIES AND MATERIALS - 63XX	669,468
		OTHER OPERATING COSTS - 64XX	690,798
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	25,025,717
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		240,198
		PAYROLL COSTS - 61XX	240,198
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	240,198
		TOTAL FOR ORGANIZATION 003 - PERMIAN HIGH SCHOOL	25,265,915

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004	ALTERNATIVE EDUCATION CENTER	
199	GENERAL FUND	
	11 INSTRUCTION	1,012,149
	13 CURRICULUM & STAFF DEVELOPMENT	2,000
	23 SCHOOL LEADERSHIP	492,405
	31 GUID, COUNS & EVALUATION SERVS	88,051
	36 CO/EXTRACURRICULAR ACTIVITIES	300
	51 FACILITIES MAINT & OPERATIONS	86,719
	PAYROLL COSTS - 61XX	1,644,380
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	1,200
	SUPPLIES AND MATERIALS - 63XX	21,844
	OTHER OPERATING COSTS - 64XX	14,200
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	1,681,624
	TOTAL FOR ORGANIZATION 004 - ALTERNATIVE EDUCATION CENTER	1,681,624

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005	YOUTH CENTER		
	199	GENERAL FUND	
		11 INSTRUCTION	122,279
		13 CURRICULUM & STAFF DEVELOPMENT	300
		23 SCHOOL LEADERSHIP	4,000
		31 GUID, COUNS & EVALUATION SERVS	400
		32 SOCIAL WORK SERVICES	70,000
		PAYROLL COSTS - 61XX	116,867
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	70,000
		SUPPLIES AND MATERIALS - 63XX	9,912
		OTHER OPERATING COSTS - 64XX	200
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	196,979
		TOTAL FOR ORGANIZATION 005 - YOUTH CENTER	196,979

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009	STEM ACADEMY		
	199	GENERAL FUND	
	11	INSTRUCTION	7,210,153
	13	CURRICULUM & STAFF DEVELOPMENT	4,731
	23	SCHOOL LEADERSHIP	361,393
	31	GUID, COUNS & EVALUATION SERVS	144,848
	33	HEALTH SERVICES	73,878
	53	DATA PROCESSING SERVICES	54,997
		PAYROLL COSTS - 61XX	4,150,000
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	3,700,000
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	7,850,000
		TOTAL FOR ORGANIZATION 009 - STEM ACADEMY	7,850,000

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011	GEORGE HW BUSH NEW TECH ODESSA	
199	GENERAL FUND	
	11 INSTRUCTION	1,860,499
	13 CURRICULUM & STAFF DEVELOPMENT	76,760
	23 SCHOOL LEADERSHIP	340,214
	31 GUID, COUNS & EVALUATION SERVS	113,136
	33 HEALTH SERVICES	78,248
	36 CO/EXTRACURRICULAR ACTIVITIES	20,027
	PAYROLL COSTS - 61XX	2,132,910
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	156,900
	SUPPLIES AND MATERIALS - 63XX	127,724
	OTHER OPERATING COSTS - 64XX	71,350
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	2,488,884
240	SCHOOL NUTRITION	
	35 FOOD SERVICE	212,782
	PAYROLL COSTS - 61XX	212,782
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
	SUPPLIES AND MATERIALS - 63XX	0
	OTHER OPERATING COSTS - 64XX	0
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 240 - SCHOOL NUTRITION	212,782
	TOTAL FOR ORGANIZATION 011 - GEORGE HW BUSH NEW TECH ODESSA	2,701,666

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014	ODESSA CAREER & TECHNICAL ECHS	
199	GENERAL FUND	
	11 INSTRUCTION	1,929,183
	13 CURRICULUM & STAFF DEVELOPMENT	84,856
	23 SCHOOL LEADERSHIP	219,551
	31 GUID, COUNS & EVALUATION SERVS	88,009
	33 HEALTH SERVICES	14,887
	36 CO/EXTRACURRICULAR ACTIVITIES	4,350
	51 FACILITIES MAINT & OPERATIONS	150,000
	PAYROLL COSTS - 61XX	1,858,490
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	500,100
	SUPPLIES AND MATERIALS - 63XX	111,450
	OTHER OPERATING COSTS - 64XX	20,796
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	2,490,836
	TOTAL FOR ORGANIZATION 014 - ODESSA CAREER & TECHNICAL ECHS	2,490,836

ECISD 2024-2025 BUDGET BOOK

015	ODESSA COLLEGIATE ACADEMY	
199	GENERAL FUND	
	11 INSTRUCTION	1,813,374
	13 CURRICULUM & STAFF DEVELOPMENT	13,300
	23 SCHOOL LEADERSHIP	208,181
	31 GUID, COUNS & EVALUATION SERVS	108,587
	33 HEALTH SERVICES	14,887
	36 CO/EXTRACURRICULAR ACTIVITIES	13,650
	51 FACILITIES MAINT & OPERATIONS	105,000
	PAYROLL COSTS - 61XX	1,764,129
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	464,700
	SUPPLIES AND MATERIALS - 63XX	25,300
	OTHER OPERATING COSTS - 64XX	22,850
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	2,276,979
	TOTAL FOR ORGANIZATION 015 - ODESSA COLLEGIATE ACADEMY	2,276,979

ECISD 2024-2025 BUDGET BOOK

042	BONHAM MIDDLE SCHOOL		
	199	GENERAL FUND	
		11 INSTRUCTION	4,248,924
		12 INSTRUCTIONAL RES & MEDIA SERV	90,380
		13 CURRICULUM & STAFF DEVELOPMENT	58,908
		23 SCHOOL LEADERSHIP	679,273
		31 GUID, COUNS & EVALUATION SERVS	269,047
		32 SOCIAL WORK SERVICES	8,500
		33 HEALTH SERVICES	70,669
		34 STUDENT TRANSPORTATION	4,000
		36 CO/EXTRACURRICULAR ACTIVITIES	86,038
		51 FACILITIES MAINT & OPERATIONS	275,646
		PAYROLL COSTS - 61XX	5,602,042
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	29,050
		SUPPLIES AND MATERIALS - 63XX	124,829
		OTHER OPERATING COSTS - 64XX	35,464
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	5,791,385
	240	SCHOOL NUTRITION	
		35 FOOD SERVICE	216,258
		PAYROLL COSTS - 61XX	216,258
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	216,258
		TOTAL FOR ORGANIZATION 042 - BONHAM MIDDLE SCHOOL	6,007,643

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043	BOWIE MIDDLE SCHOOL		
	199	GENERAL FUND	
		11 INSTRUCTION	5,094,159
		12 INSTRUCTIONAL RES & MEDIA SERV	114,053
		13 CURRICULUM & STAFF DEVELOPMENT	83,256
		23 SCHOOL LEADERSHIP	592,983
		31 GUID, COUNS & EVALUATION SERVS	313,765
		32 SOCIAL WORK SERVICES	70,000
		33 HEALTH SERVICES	20,832
		36 CO/EXTRACURRICULAR ACTIVITIES	90,843
		51 FACILITIES MAINT & OPERATIONS	275,268
		PAYROLL COSTS - 61XX	6,396,332
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	109,113
		SUPPLIES AND MATERIALS - 63XX	107,946
		OTHER OPERATING COSTS - 64XX	41,768
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	6,655,159
	240	SCHOOL NUTRITION	
		35 FOOD SERVICE	201,666
		PAYROLL COSTS - 61XX	201,666
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	201,666
		TOTAL FOR ORGANIZATION 043 - BOWIE MIDDLE SCHOOL	6,856,825

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044	CROCKETT MIDDLE SCHOOL		
199	GENERAL FUND		
	11 INSTRUCTION		5,072,366
	12 INSTRUCTIONAL RES & MEDIA SERV		105,979
	13 CURRICULUM & STAFF DEVELOPMENT		164,689
	23 SCHOOL LEADERSHIP		675,636
	31 GUID, COUNS & EVALUATION SERVS		266,576
	32 SOCIAL WORK SERVICES		35,000
	33 HEALTH SERVICES		45,153
	36 CO/EXTRACURRICULAR ACTIVITIES		96,942
	51 FACILITIES MAINT & OPERATIONS		253,179
		PAYROLL COSTS - 61XX	6,445,036
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	48,187
		SUPPLIES AND MATERIALS - 63XX	185,697
		OTHER OPERATING COSTS - 64XX	36,600
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	6,715,520
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		220,951
		PAYROLL COSTS - 61XX	220,951
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	220,951
		TOTAL FOR ORGANIZATION 044 - CROCKETT MIDDLE SCHOOL	6,936,471

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045	WILSON YOUNG MOH MIDDLE SCHOOL		
199	GENERAL FUND		
	11 INSTRUCTION		5,701,117
	12 INSTRUCTIONAL RES & MEDIA SERV		77,491
	13 CURRICULUM & STAFF DEVELOPMENT		64,932
	23 SCHOOL LEADERSHIP		587,680
	31 GUID, COUNS & EVALUATION SERVS		281,382
	32 SOCIAL WORK SERVICES		35,000
	33 HEALTH SERVICES		74,842
	36 CO/EXTRACURRICULAR ACTIVITIES		92,017
	51 FACILITIES MAINT & OPERATIONS		271,544
		PAYROLL COSTS - 61XX	6,941,560
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	52,187
		SUPPLIES AND MATERIALS - 63XX	166,524
		OTHER OPERATING COSTS - 64XX	25,734
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	7,186,005
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		233,188
		PAYROLL COSTS - 61XX	233,188
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	233,188
		TOTAL FOR ORGANIZATION 045 - WILSON YOUNG MOH MIDDLE SCHOOL	7,419,193

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046	NIMITZ MIDDLE SCHOOL		
199	GENERAL FUND		
	11 INSTRUCTION		6,138,237
	12 INSTRUCTIONAL RES & MEDIA SERV		75,759
	13 CURRICULUM & STAFF DEVELOPMENT		86,746
	23 SCHOOL LEADERSHIP		591,941
	31 GUID, COUNS & EVALUATION SERVS		363,110
	32 SOCIAL WORK SERVICES		35,000
	33 HEALTH SERVICES		73,930
	36 CO/EXTRACURRICULAR ACTIVITIES		105,287
	51 FACILITIES MAINT & OPERATIONS		281,100
		PAYROLL COSTS - 61XX	7,470,815
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	51,750
		SUPPLIES AND MATERIALS - 63XX	199,906
		OTHER OPERATING COSTS - 64XX	28,639
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	7,751,110
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		294,823
		PAYROLL COSTS - 61XX	294,823
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	294,823
		TOTAL FOR ORGANIZATION 046 - NIMITZ MIDDLE SCHOOL	8,045,933

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047	ECTOR MIDDLE SCHOOL		
	199	GENERAL FUND	
		11 INSTRUCTION	6,852,810
		12 INSTRUCTIONAL RES & MEDIA SERV	79,760
		13 CURRICULUM & STAFF DEVELOPMENT	37,460
		23 SCHOOL LEADERSHIP	732,660
		31 GUID, COUNS & EVALUATION SERVS	312,200
		32 SOCIAL WORK SERVICES	40,000
		33 HEALTH SERVICES	74,760
		36 CO/EXTRACURRICULAR ACTIVITIES	31,000
		PAYROLL COSTS - 61XX	7,836,173
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	58,875
		SUPPLIES AND MATERIALS - 63XX	225,602
		OTHER OPERATING COSTS - 64XX	40,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	8,160,650
	240	SCHOOL NUTRITION	
		35 FOOD SERVICE	229,299
		PAYROLL COSTS - 61XX	229,299
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	229,299
		TOTAL FOR ORGANIZATION 047 - ECTOR MIDDLE SCHOOL	8,389,949

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101	ALAMO ELEMENTARY SCHOOL		
	199	GENERAL FUND	
		11 INSTRUCTION	1,309,224
		12 INSTRUCTIONAL RES & MEDIA SERV	82,540
		13 CURRICULUM & STAFF DEVELOPMENT	46,980
		23 SCHOOL LEADERSHIP	281,776
		31 GUID, COUNS & EVALUATION SERVS	149,127
		33 HEALTH SERVICES	76,876
		36 CO/EXTRACURRICULAR ACTIVITIES	1,669
		51 FACILITIES MAINT & OPERATIONS	138,156
		PAYROLL COSTS - 61XX	1,991,227
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	5,100
		SUPPLIES AND MATERIALS - 63XX	49,621
		OTHER OPERATING COSTS - 64XX	40,400
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	2,086,348
	240	SCHOOL NUTRITION	
		35 FOOD SERVICE	142,957
		PAYROLL COSTS - 61XX	142,957
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	142,957
		TOTAL FOR ORGANIZATION 101 - ALAMO ELEMENTARY SCHOOL	2,229,305

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102	AUSTIN ELEMENTARY SCHOOL		
199	GENERAL FUND		
	11 INSTRUCTION		2,556,572
	12 INSTRUCTIONAL RES & MEDIA SERV		84,666
	13 CURRICULUM & STAFF DEVELOPMENT		50,220
	23 SCHOOL LEADERSHIP		324,710
	31 GUID, COUNS & EVALUATION SERVS		82,013
	33 HEALTH SERVICES		12,180
	36 CO/EXTRACURRICULAR ACTIVITIES		306
	51 FACILITIES MAINT & OPERATIONS		159,125
		PAYROLL COSTS - 61XX	3,166,977
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	9,860
		SUPPLIES AND MATERIALS - 63XX	52,718
		OTHER OPERATING COSTS - 64XX	40,237
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,269,792
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		125,499
		PAYROLL COSTS - 61XX	125,499
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	125,499
		TOTAL FOR ORGANIZATION 102 - AUSTIN ELEMENTARY SCHOOL	3,395,291

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104	BURNET ELEMENTARY SCHOOL		
	199	GENERAL FUND	
		11 INSTRUCTION	1,297,527
		12 INSTRUCTIONAL RES & MEDIA SERV	300
		13 CURRICULUM & STAFF DEVELOPMENT	6,802
		23 SCHOOL LEADERSHIP	241,339
		31 GUID, COUNS & EVALUATION SERVS	102,436
		33 HEALTH SERVICES	72,125
		36 CO/EXTRACURRICULAR ACTIVITIES	2,850
		51 FACILITIES MAINT & OPERATIONS	174,101
		PAYROLL COSTS - 61XX	1,852,495
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	5,500
		SUPPLIES AND MATERIALS - 63XX	34,813
		OTHER OPERATING COSTS - 64XX	4,672
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	1,897,480
	240	SCHOOL NUTRITION	
		35 FOOD SERVICE	128,279
		PAYROLL COSTS - 61XX	128,279
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	128,279
		TOTAL FOR ORGANIZATION 104 - BURNET ELEMENTARY SCHOOL	2,025,759

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105	CAMERON ELEMENTARY SCHOOL		
	199	GENERAL FUND	
		11 INSTRUCTION	2,919,736
		12 INSTRUCTIONAL RES & MEDIA SERV	1,700
		13 CURRICULUM & STAFF DEVELOPMENT	20,181
		23 SCHOOL LEADERSHIP	337,111
		31 GUID, COUNS & EVALUATION SERVS	106,463
		33 HEALTH SERVICES	65,101
		36 CO/EXTRACURRICULAR ACTIVITIES	1,665
		51 FACILITIES MAINT & OPERATIONS	198,523
		61 COMMUNITY SERVICES	1,700
		PAYROLL COSTS - 61XX	3,544,795
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	200
		SUPPLIES AND MATERIALS - 63XX	91,758
		OTHER OPERATING COSTS - 64XX	15,427
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,652,180
	240	SCHOOL NUTRITION	
		35 FOOD SERVICE	123,615
		PAYROLL COSTS - 61XX	123,615
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	123,615
		TOTAL FOR ORGANIZATION 105 - CAMERON ELEMENTARY SCHOOL	3,775,795

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106	CARVER EARLY EDUCATION CENTER	
199	GENERAL FUND	
	11 INSTRUCTION	2,034,689
	12 INSTRUCTIONAL RES & MEDIA SERV	30,647
	13 CURRICULUM & STAFF DEVELOPMENT	9,840
	23 SCHOOL LEADERSHIP	211,330
	31 GUID, COUNS & EVALUATION SERVS	92,573
	33 HEALTH SERVICES	35,378
	36 CO/EXTRACURRICULAR ACTIVITIES	1,681
	51 FACILITIES MAINT & OPERATIONS	79,365
	PAYROLL COSTS - 61XX	2,441,893
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	700
	SUPPLIES AND MATERIALS - 63XX	43,410
	OTHER OPERATING COSTS - 64XX	9,500
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	2,495,503
	TOTAL FOR ORGANIZATION 106 - CARVER EARLY EDUCATION CENTER	2,495,503

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107	DOWLING ELEMENTARY SCHOOL		
	199 GENERAL FUND		
	11 INSTRUCTION		2,764,945
	12 INSTRUCTIONAL RES & MEDIA SERV		75,449
	13 CURRICULUM & STAFF DEVELOPMENT		11,880
	23 SCHOOL LEADERSHIP		216,079
	31 GUID, COUNS & EVALUATION SERVS		92,503
	33 HEALTH SERVICES		68,812
	36 CO/EXTRACURRICULAR ACTIVITIES		2,750
	51 FACILITIES MAINT & OPERATIONS		167,514
		PAYROLL COSTS - 61XX	3,305,573
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	12,500
		SUPPLIES AND MATERIALS - 63XX	81,159
		OTHER OPERATING COSTS - 64XX	700
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,399,932
	240 SCHOOL NUTRITION		
	35 FOOD SERVICE		132,163
		PAYROLL COSTS - 61XX	132,163
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	132,163
		TOTAL FOR ORGANIZATION 107 - DOWLING ELEMENTARY SCHOOL	3,532,095

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110	GOLIAD ELEMENTARY SCHOOL		
	199 GENERAL FUND		
	11 INSTRUCTION		2,491,754
	12 INSTRUCTIONAL RES & MEDIA SERV		2,400
	13 CURRICULUM & STAFF DEVELOPMENT		14,220
	23 SCHOOL LEADERSHIP		314,785
	31 GUID, COUNS & EVALUATION SERVS		81,811
	33 HEALTH SERVICES		37,582
	36 CO/EXTRACURRICULAR ACTIVITIES		1,675
	51 FACILITIES MAINT & OPERATIONS		156,512
		PAYROLL COSTS - 61XX	3,006,574
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	88,865
		OTHER OPERATING COSTS - 64XX	5,300
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,100,739
	240 SCHOOL NUTRITION		
	35 FOOD SERVICE		158,675
		PAYROLL COSTS - 61XX	158,675
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	158,675
		TOTAL FOR ORGANIZATION 110 - GOLIAD ELEMENTARY SCHOOL	3,259,414

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111	GONZALES ELEMENTARY SCHOOL		
199	GENERAL FUND		
	11 INSTRUCTION		1,912,744
	12 INSTRUCTIONAL RES & MEDIA SERV		79,342
	13 CURRICULUM & STAFF DEVELOPMENT		11,240
	23 SCHOOL LEADERSHIP		264,823
	31 GUID, COUNS & EVALUATION SERVS		89,413
	33 HEALTH SERVICES		51,072
	36 CO/EXTRACURRICULAR ACTIVITIES		1,681
	51 FACILITIES MAINT & OPERATIONS		161,969
		PAYROLL COSTS - 61XX	2,507,994
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	59,990
		OTHER OPERATING COSTS - 64XX	4,300
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	2,572,284
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		104,116
		PAYROLL COSTS - 61XX	104,116
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	104,116
		TOTAL FOR ORGANIZATION 111 - GONZALES ELEMENTARY SCHOOL	2,676,400

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112	HAYS ELEMENTARY MAGNET SCHOOL		
199	GENERAL FUND		
	11 INSTRUCTION		2,162,822
	12 INSTRUCTIONAL RES & MEDIA SERV		95,849
	13 CURRICULUM & STAFF DEVELOPMENT		13,840
	23 SCHOOL LEADERSHIP		331,473
	31 GUID, COUNS & EVALUATION SERVS		608
	33 HEALTH SERVICES		34,649
	36 CO/EXTRACURRICULAR ACTIVITIES		1,681
	51 FACILITIES MAINT & OPERATIONS		164,164
		PAYROLL COSTS - 61XX	2,733,197
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	400
		SUPPLIES AND MATERIALS - 63XX	59,089
		OTHER OPERATING COSTS - 64XX	12,400
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	2,805,086
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		108,755
		PAYROLL COSTS - 61XX	108,755
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	108,755
		TOTAL FOR ORGANIZATION 112 - HAYS ELEMENTARY MAGNET SCHOOL	2,913,841

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113	SAM HOUSTON ELEMENTARY SCHOOL		
	199 GENERAL FUND		
	11 INSTRUCTION		2,101,103
	12 INSTRUCTIONAL RES & MEDIA SERV		1,400
	13 CURRICULUM & STAFF DEVELOPMENT		41,577
	23 SCHOOL LEADERSHIP		251,599
	31 GUID, COUNS & EVALUATION SERVS		1,069
	33 HEALTH SERVICES		105,824
	36 CO/EXTRACURRICULAR ACTIVITIES		989
	51 FACILITIES MAINT & OPERATIONS		164,392
		PAYROLL COSTS - 61XX	2,603,414
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	52,539
		OTHER OPERATING COSTS - 64XX	12,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	2,667,953
	240 SCHOOL NUTRITION		
	35 FOOD SERVICE		104,732
		PAYROLL COSTS - 61XX	104,732
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	104,732
		TOTAL FOR ORGANIZATION 113 - SAM HOUSTON ELEMENTARY SCHOOL	2,772,685

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114	IRELAND ELEMENTARY MAGNET SCH		
	199 GENERAL FUND		
	11 INSTRUCTION		1,556,610
	12 INSTRUCTIONAL RES & MEDIA SERV		1,700
	13 CURRICULUM & STAFF DEVELOPMENT		9,280
	23 SCHOOL LEADERSHIP		307,894
	31 GUID, COUNS & EVALUATION SERVS		83,382
	33 HEALTH SERVICES		84,935
	36 CO/EXTRACURRICULAR ACTIVITIES		1,665
	51 FACILITIES MAINT & OPERATIONS		146,187
		PAYROLL COSTS - 61XX	2,136,042
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	4,000
		SUPPLIES AND MATERIALS - 63XX	49,611
		OTHER OPERATING COSTS - 64XX	2,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	2,191,653
	240 SCHOOL NUTRITION		
	35 FOOD SERVICE		128,396
		PAYROLL COSTS - 61XX	128,396
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	128,396
		TOTAL FOR ORGANIZATION 114 - IRELAND ELEMENTARY MAGNET SCH	2,320,049

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115	LAMAR EARLY EDUCATION CENTER		
199	GENERAL FUND		
	11 INSTRUCTION		2,404,438
	12 INSTRUCTIONAL RES & MEDIA SERV		31,100
	13 CURRICULUM & STAFF DEVELOPMENT		16,020
	23 SCHOOL LEADERSHIP		275,196
	31 GUID, COUNS & EVALUATION SERVS		130,206
	33 HEALTH SERVICES		30,174
	36 CO/EXTRACURRICULAR ACTIVITIES		1,675
	51 FACILITIES MAINT & OPERATIONS		153,313
		PAYROLL COSTS - 61XX	2,977,173
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	1,500
		SUPPLIES AND MATERIALS - 63XX	50,349
		OTHER OPERATING COSTS - 64XX	13,100
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,042,122
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		110,496
		PAYROLL COSTS - 61XX	110,496
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	110,496
		TOTAL FOR ORGANIZATION 115 - LAMAR EARLY EDUCATION CENTER	3,152,618

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116	MILAM ELEMENTARY MAGNET SCHOOL	
199	GENERAL FUND	
	11 INSTRUCTION	2,929,501
	12 INSTRUCTIONAL RES & MEDIA SERV	82,592
	13 CURRICULUM & STAFF DEVELOPMENT	19,700
	23 SCHOOL LEADERSHIP	307,910
	31 GUID, COUNS & EVALUATION SERVS	100,260
	33 HEALTH SERVICES	88,186
	36 CO/EXTRACURRICULAR ACTIVITIES	1,683
	51 FACILITIES MAINT & OPERATIONS	153,297
	PAYROLL COSTS - 61XX	3,581,757
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	600
	SUPPLIES AND MATERIALS - 63XX	89,872
	OTHER OPERATING COSTS - 64XX	10,900
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	3,683,129
	TOTAL FOR ORGANIZATION 116 - MILAM ELEMENTARY MAGNET SCHOOL	3,683,129

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117	PEASE ELEMENTARY SCHOOL		
	199 GENERAL FUND		
	11 INSTRUCTION		2,747,403
	12 INSTRUCTIONAL RES & MEDIA SERV		80,177
	13 CURRICULUM & STAFF DEVELOPMENT		126,001
	23 SCHOOL LEADERSHIP		312,877
	31 GUID, COUNS & EVALUATION SERVS		22,829
	33 HEALTH SERVICES		45,153
	36 CO/EXTRACURRICULAR ACTIVITIES		1,670
	51 FACILITIES MAINT & OPERATIONS		168,003
		PAYROLL COSTS - 61XX	3,415,317
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	3,800
		SUPPLIES AND MATERIALS - 63XX	72,096
		OTHER OPERATING COSTS - 64XX	12,900
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,504,113
	240 SCHOOL NUTRITION		
	35 FOOD SERVICE		130,904
		PAYROLL COSTS - 61XX	130,904
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	130,904
		TOTAL FOR ORGANIZATION 117 - PEASE ELEMENTARY SCHOOL	3,635,017

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118	REAGAN ELEMENTARY MAGNET SCHOO		
199	GENERAL FUND		
	11 INSTRUCTION		2,762,375
	12 INSTRUCTIONAL RES & MEDIA SERV		83,213
	13 CURRICULUM & STAFF DEVELOPMENT		96,703
	23 SCHOOL LEADERSHIP		286,389
	31 GUID, COUNS & EVALUATION SERVS		83,478
	33 HEALTH SERVICES		73,586
	36 CO/EXTRACURRICULAR ACTIVITIES		1,796
	51 FACILITIES MAINT & OPERATIONS		148,513
		PAYROLL COSTS - 61XX	3,449,867
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	81,586
		OTHER OPERATING COSTS - 64XX	4,600
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,536,053
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		110,443
		PAYROLL COSTS - 61XX	110,443
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	110,443
		TOTAL FOR ORGANIZATION 118 - REAGAN ELEMENTARY MAGNET SCHOO	3,646,496

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119	ROSS ELEMENTARY SCHOOL		
199	GENERAL FUND		
	11 INSTRUCTION		2,236,076
	12 INSTRUCTIONAL RES & MEDIA SERV		1,900
	13 CURRICULUM & STAFF DEVELOPMENT		14,330
	23 SCHOOL LEADERSHIP		321,106
	31 GUID, COUNS & EVALUATION SERVS		102,398
	33 HEALTH SERVICES		34,489
	36 CO/EXTRACURRICULAR ACTIVITIES		1,681
	51 FACILITIES MAINT & OPERATIONS		157,988
		PAYROLL COSTS - 61XX	2,811,038
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	5,000
		SUPPLIES AND MATERIALS - 63XX	44,036
		OTHER OPERATING COSTS - 64XX	9,894
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	2,869,968
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		107,913
		PAYROLL COSTS - 61XX	107,913
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	107,913
		TOTAL FOR ORGANIZATION 119 - ROSS ELEMENTARY SCHOOL	2,977,881

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121	SAN JACINTO ELEMENTARY SCHOOL		
	199 GENERAL FUND		
	11 INSTRUCTION		2,519,576
	12 INSTRUCTIONAL RES & MEDIA SERV		79,259
	13 CURRICULUM & STAFF DEVELOPMENT		25,982
	23 SCHOOL LEADERSHIP		294,923
	31 GUID, COUNS & EVALUATION SERVS		65,690
	33 HEALTH SERVICES		35,259
	36 CO/EXTRACURRICULAR ACTIVITIES		1,671
	51 FACILITIES MAINT & OPERATIONS		135,740
		PAYROLL COSTS - 61XX	3,072,837
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	62,064
		OTHER OPERATING COSTS - 64XX	23,199
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,158,100
	240 SCHOOL NUTRITION		
	35 FOOD SERVICE		137,723
		PAYROLL COSTS - 61XX	137,723
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	137,723
		TOTAL FOR ORGANIZATION 121 - SAN JACINTO ELEMENTARY SCHOOL	3,295,823

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123	ZAVALA ELEMENTARY MAGNET SCHOO		
	199 GENERAL FUND		
	11 INSTRUCTION		3,177,617
	12 INSTRUCTIONAL RES & MEDIA SERV		1,100
	13 CURRICULUM & STAFF DEVELOPMENT		20,960
	23 SCHOOL LEADERSHIP		360,784
	31 GUID, COUNS & EVALUATION SERVS		115,280
	33 HEALTH SERVICES		28,668
	36 CO/EXTRACURRICULAR ACTIVITIES		1,679
	51 FACILITIES MAINT & OPERATIONS		168,337
	61 COMMUNITY SERVICES		1,300
		PAYROLL COSTS - 61XX	3,749,363
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	500
		SUPPLIES AND MATERIALS - 63XX	114,562
		OTHER OPERATING COSTS - 64XX	11,300
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,875,725
	240 SCHOOL NUTRITION		
	35 FOOD SERVICE		112,943
		PAYROLL COSTS - 61XX	112,943
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	112,943
		TOTAL FOR ORGANIZATION 123 - ZAVALA ELEMENTARY MAGNET SCHOO	3,988,668

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124	NOEL ELEMENTARY MAGNET SCHOOL		
	199	GENERAL FUND	
	11	INSTRUCTION	2,495,098
	12	INSTRUCTIONAL RES & MEDIA SERV	1,900
	13	CURRICULUM & STAFF DEVELOPMENT	15,971
	23	SCHOOL LEADERSHIP	327,703
	31	GUID, COUNS & EVALUATION SERVS	104,306
	33	HEALTH SERVICES	36,333
	36	CO/EXTRACURRICULAR ACTIVITIES	1,779
	51	FACILITIES MAINT & OPERATIONS	198,264
		PAYROLL COSTS - 61XX	3,093,029
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	7,800
		SUPPLIES AND MATERIALS - 63XX	66,760
		OTHER OPERATING COSTS - 64XX	13,765
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,181,354
	240	SCHOOL NUTRITION	
	35	FOOD SERVICE	126,773
		PAYROLL COSTS - 61XX	126,773
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	126,773
		TOTAL FOR ORGANIZATION 124 - NOEL ELEMENTARY MAGNET SCHOOL	3,308,127

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125	BLANTON ELEMENTARY SCHOOL		
199	GENERAL FUND		
	11 INSTRUCTION		2,046,471
	13 CURRICULUM & STAFF DEVELOPMENT		16,440
	23 SCHOOL LEADERSHIP		293,497
	31 GUID, COUNS & EVALUATION SERVS		100,551
	33 HEALTH SERVICES		51,073
	36 CO/EXTRACURRICULAR ACTIVITIES		1,682
	51 FACILITIES MAINT & OPERATIONS		137,220
		PAYROLL COSTS - 61XX	2,572,199
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	58,235
		OTHER OPERATING COSTS - 64XX	16,500
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	2,646,934
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		128,679
		PAYROLL COSTS - 61XX	128,679
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	128,679
		TOTAL FOR ORGANIZATION 125 - BLANTON ELEMENTARY SCHOOL	2,775,613

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126	FLY ELEMENTARY SCHOOL		
	199 GENERAL FUND		
	11 INSTRUCTION		4,452,981
	12 INSTRUCTIONAL RES & MEDIA SERV		3,100
	13 CURRICULUM & STAFF DEVELOPMENT		32,361
	23 SCHOOL LEADERSHIP		593,819
	31 GUID, COUNS & EVALUATION SERVS		78,081
	33 HEALTH SERVICES		81,361
	36 CO/EXTRACURRICULAR ACTIVITIES		5,062
	51 FACILITIES MAINT & OPERATIONS		248,677
		PAYROLL COSTS - 61XX	5,329,013
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	2,400
		SUPPLIES AND MATERIALS - 63XX	147,529
		OTHER OPERATING COSTS - 64XX	16,500
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	5,495,442
	240 SCHOOL NUTRITION		
	35 FOOD SERVICE		218,129
		PAYROLL COSTS - 61XX	218,129
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	218,129
		TOTAL FOR ORGANIZATION 126 - FLY ELEMENTARY SCHOOL	5,713,571

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127	BLACKSHEAR ELEMENTARY MAGNET S		
	199 GENERAL FUND		
	11 INSTRUCTION		2,849,474
	12 INSTRUCTIONAL RES & MEDIA SERV		76,439
	13 CURRICULUM & STAFF DEVELOPMENT		21,560
	23 SCHOOL LEADERSHIP		321,524
	31 GUID, COUNS & EVALUATION SERVS		144,238
	33 HEALTH SERVICES		14,446
	36 CO/EXTRACURRICULAR ACTIVITIES		1,666
	51 FACILITIES MAINT & OPERATIONS		250,718
	61 COMMUNITY SERVICES		1,000
		PAYROLL COSTS - 61XX	3,559,732
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	1,800
		SUPPLIES AND MATERIALS - 63XX	103,143
		OTHER OPERATING COSTS - 64XX	16,390
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,681,065
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		290,284
		PAYROLL COSTS - 61XX	290,284
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	290,284
		TOTAL FOR ORGANIZATION 127 - BLACKSHEAR ELEMENTARY MAGNET S	3,971,349

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128	JOHNSON ELEMENTARY SCHOOL		
199	GENERAL FUND		
	11 INSTRUCTION		1,913,239
	12 INSTRUCTIONAL RES & MEDIA SERV		80,438
	13 CURRICULUM & STAFF DEVELOPMENT		10,967
	23 SCHOOL LEADERSHIP		348,645
	31 GUID, COUNS & EVALUATION SERVS		81,350
	33 HEALTH SERVICES		70,119
	36 CO/EXTRACURRICULAR ACTIVITIES		1,685
	51 FACILITIES MAINT & OPERATIONS		158,049
		PAYROLL COSTS - 61XX	2,597,200
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	9,100
		SUPPLIES AND MATERIALS - 63XX	49,792
		OTHER OPERATING COSTS - 64XX	8,400
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	2,664,492
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		126,082
		PAYROLL COSTS - 61XX	126,082
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	126,082
		TOTAL FOR ORGANIZATION 128 - JOHNSON ELEMENTARY SCHOOL	2,790,574

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129	JORDAN ELEMENTARY SCHOOL		
199	GENERAL FUND		
	11 INSTRUCTION		3,484,058
	12 INSTRUCTIONAL RES & MEDIA SERV		2,000
	13 CURRICULUM & STAFF DEVELOPMENT		30,594
	23 SCHOOL LEADERSHIP		381,151
	31 GUID, COUNS & EVALUATION SERVS		99,978
	33 HEALTH SERVICES		78,369
	36 CO/EXTRACURRICULAR ACTIVITIES		2,757
	51 FACILITIES MAINT & OPERATIONS		188,252
		PAYROLL COSTS - 61XX	4,150,196
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	1,300
		SUPPLIES AND MATERIALS - 63XX	103,063
		OTHER OPERATING COSTS - 64XX	12,600
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	4,267,159
240	SCHOOL NUTRITION		
	35 FOOD SERVICE		150,435
		PAYROLL COSTS - 61XX	150,435
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	150,435
		TOTAL FOR ORGANIZATION 129 - JORDAN ELEMENTARY SCHOOL	4,417,594

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130	CAVAZOS ELEMENTARY SCHOOL		
	199	GENERAL FUND	
	11	INSTRUCTION	2,595,713
	12	INSTRUCTIONAL RES & MEDIA SERV	1,400
	13	CURRICULUM & STAFF DEVELOPMENT	21,875
	23	SCHOOL LEADERSHIP	398,594
	31	GUID, COUNS & EVALUATION SERVS	66,814
	33	HEALTH SERVICES	74,655
	36	CO/EXTRACURRICULAR ACTIVITIES	3,157
	51	FACILITIES MAINT & OPERATIONS	173,528
		PAYROLL COSTS - 61XX	3,236,216
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	4,500
		SUPPLIES AND MATERIALS - 63XX	83,199
		OTHER OPERATING COSTS - 64XX	11,821
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,335,736
	240	SCHOOL NUTRITION	
	35	FOOD SERVICE	129,072
		PAYROLL COSTS - 61XX	129,072
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	129,072
		TOTAL FOR ORGANIZATION 130 - CAVAZOS ELEMENTARY SCHOOL	3,464,808

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131	DOWNING ELEMENTARY SCHOOL		
	199 GENERAL FUND		
	11 INSTRUCTION		3,095,781
	12 INSTRUCTIONAL RES & MEDIA SERV		1,500
	13 CURRICULUM & STAFF DEVELOPMENT		24,281
	23 SCHOOL LEADERSHIP		487,892
	31 GUID, COUNS & EVALUATION SERVS		18,599
	32 SOCIAL WORK SERVICES		40,000
	33 HEALTH SERVICES		42,741
	36 CO/EXTRACURRICULAR ACTIVITIES		1,670
	51 FACILITIES MAINT & OPERATIONS		202,971
		PAYROLL COSTS - 61XX	3,751,764
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	44,900
		SUPPLIES AND MATERIALS - 63XX	109,528
		OTHER OPERATING COSTS - 64XX	9,243
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,915,435
	240 SCHOOL NUTRITION		
	35 FOOD SERVICE		181,612
		PAYROLL COSTS - 61XX	181,612
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	181,612
		TOTAL FOR ORGANIZATION 131 - DOWNING ELEMENTARY SCHOOL	4,097,047

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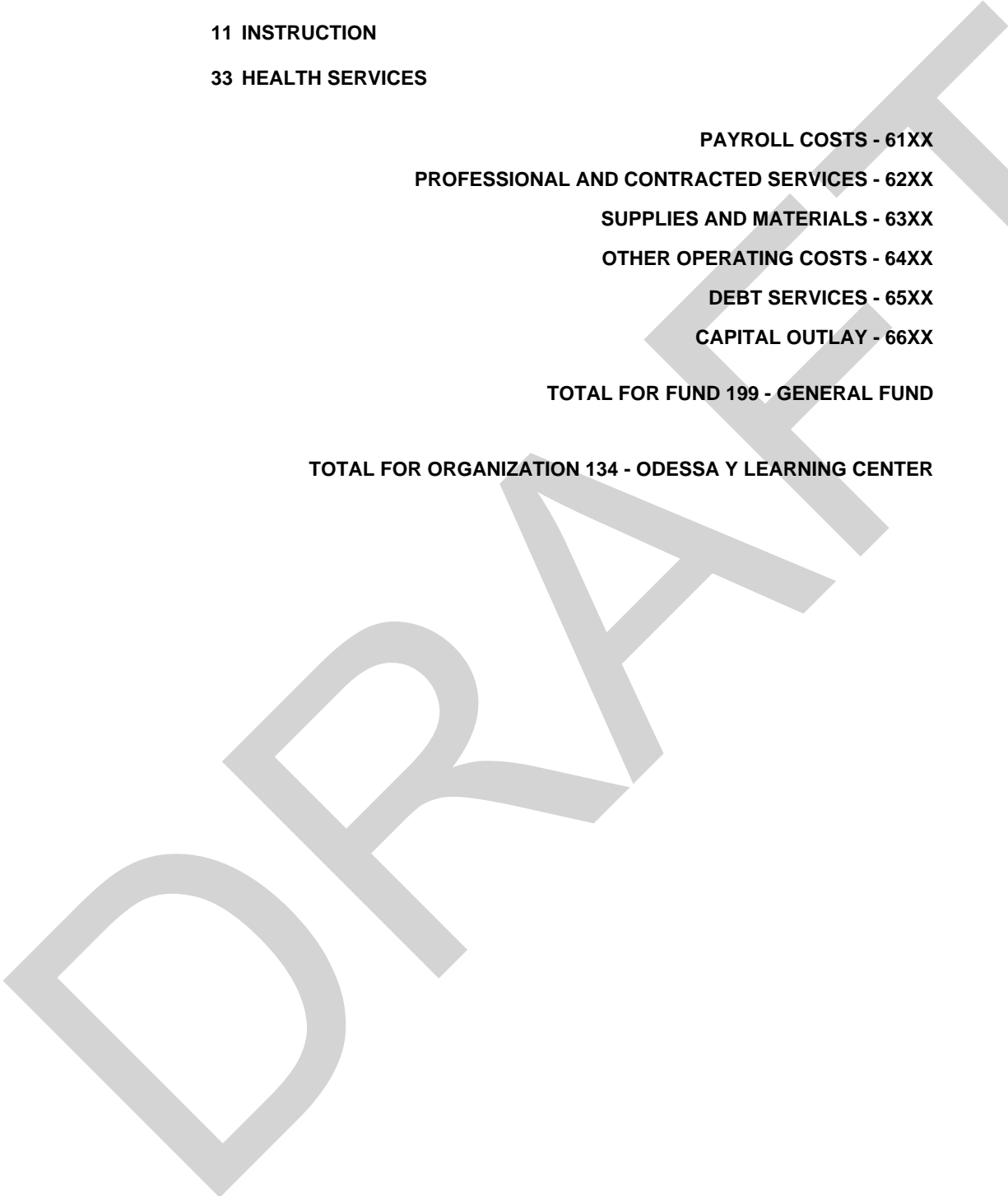
132	WEST ELEMENTARY SCHOOL		
	199 GENERAL FUND		
	11 INSTRUCTION		3,515,875
	12 INSTRUCTIONAL RES & MEDIA SERV		2,700
	13 CURRICULUM & STAFF DEVELOPMENT		18,360
	23 SCHOOL LEADERSHIP		413,287
	31 GUID, COUNS & EVALUATION SERVS		81,786
	33 HEALTH SERVICES		74,136
	36 CO/EXTRACURRICULAR ACTIVITIES		1,681
	51 FACILITIES MAINT & OPERATIONS		146,926
		PAYROLL COSTS - 61XX	4,155,328
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	900
		SUPPLIES AND MATERIALS - 63XX	73,548
		OTHER OPERATING COSTS - 64XX	24,975
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	4,254,751
	240 SCHOOL NUTRITION		
	35 FOOD SERVICE		150,052
		PAYROLL COSTS - 61XX	150,052
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	150,052
		TOTAL FOR ORGANIZATION 132 - WEST ELEMENTARY SCHOOL	4,404,803

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133	BUICE ELEMENTARY SCHOOL		
	199	GENERAL FUND	
		11 INSTRUCTION	3,132,189
		12 INSTRUCTIONAL RES & MEDIA SERV	4,200
		13 CURRICULUM & STAFF DEVELOPMENT	25,340
		23 SCHOOL LEADERSHIP	360,930
		31 GUID, COUNS & EVALUATION SERVS	121,130
		33 HEALTH SERVICES	78,856
		36 CO/EXTRACURRICULAR ACTIVITIES	2,744
		51 FACILITIES MAINT & OPERATIONS	151,551
		PAYROLL COSTS - 61XX	3,778,764
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	4,200
		SUPPLIES AND MATERIALS - 63XX	73,573
		OTHER OPERATING COSTS - 64XX	20,403
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,876,940
	240	SCHOOL NUTRITION	
		35 FOOD SERVICE	149,404
		PAYROLL COSTS - 61XX	149,404
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	149,404
		TOTAL FOR ORGANIZATION 133 - BUICE ELEMENTARY SCHOOL	4,026,344

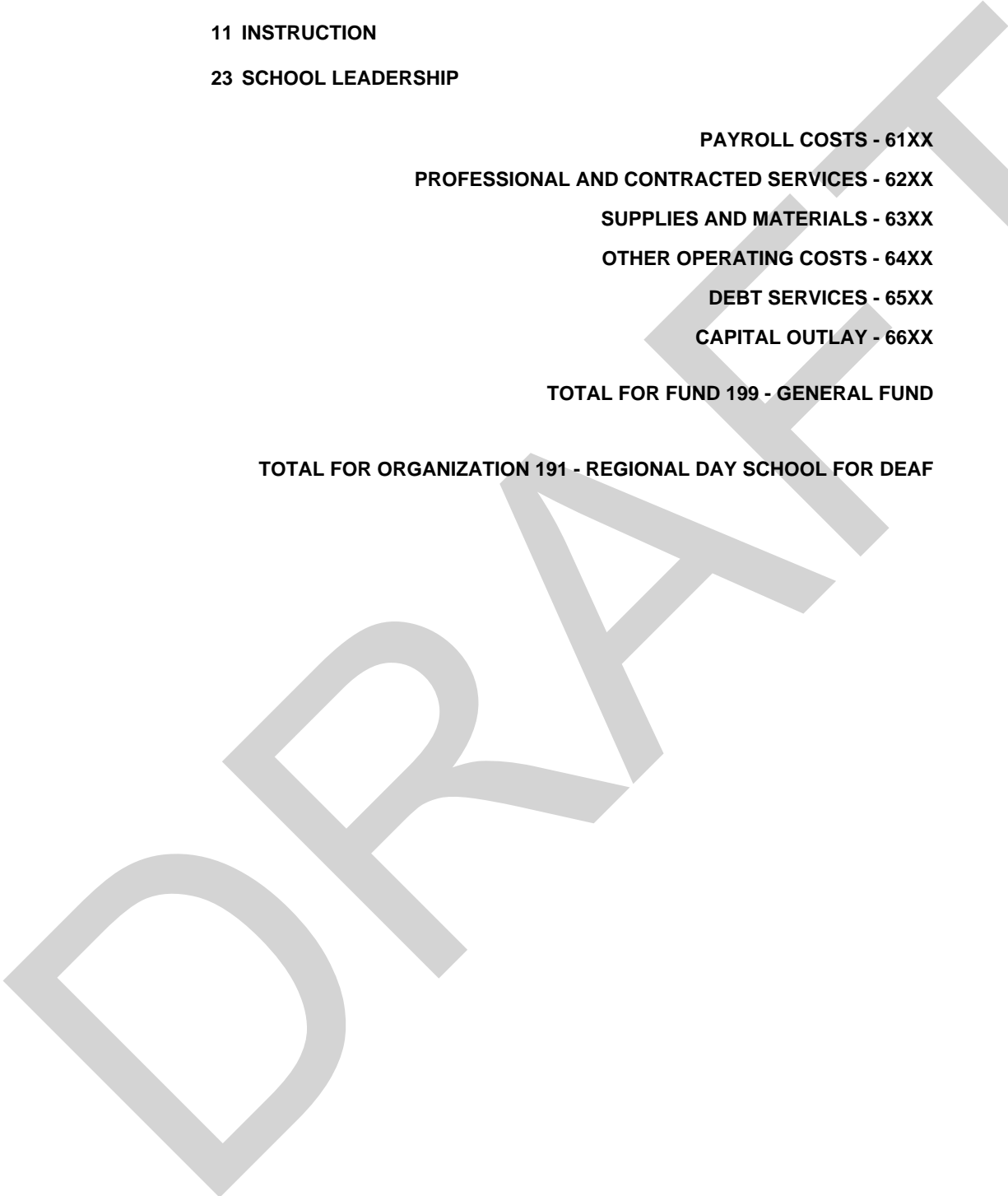
ECISD 2024-2025 BUDGET BOOK

134	ODESSA Y LEARNING CENTER	
199	GENERAL FUND	
	11 INSTRUCTION	1,300,000
	33 HEALTH SERVICES	47,256
	PAYROLL COSTS - 61XX	47,256
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	1,300,000
	SUPPLIES AND MATERIALS - 63XX	0
	OTHER OPERATING COSTS - 64XX	0
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	1,347,256
	TOTAL FOR ORGANIZATION 134 - ODESSA Y LEARNING CENTER	1,347,256



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191	REGIONAL DAY SCHOOL FOR DEAF	
199	GENERAL FUND	
11	INSTRUCTION	4,379
23	SCHOOL LEADERSHIP	5,806
	PAYROLL COSTS - 61XX	10,185
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
	SUPPLIES AND MATERIALS - 63XX	0
	OTHER OPERATING COSTS - 64XX	0
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	10,185
	TOTAL FOR ORGANIZATION 191 - REGIONAL DAY SCHOOL FOR DEAF	10,185

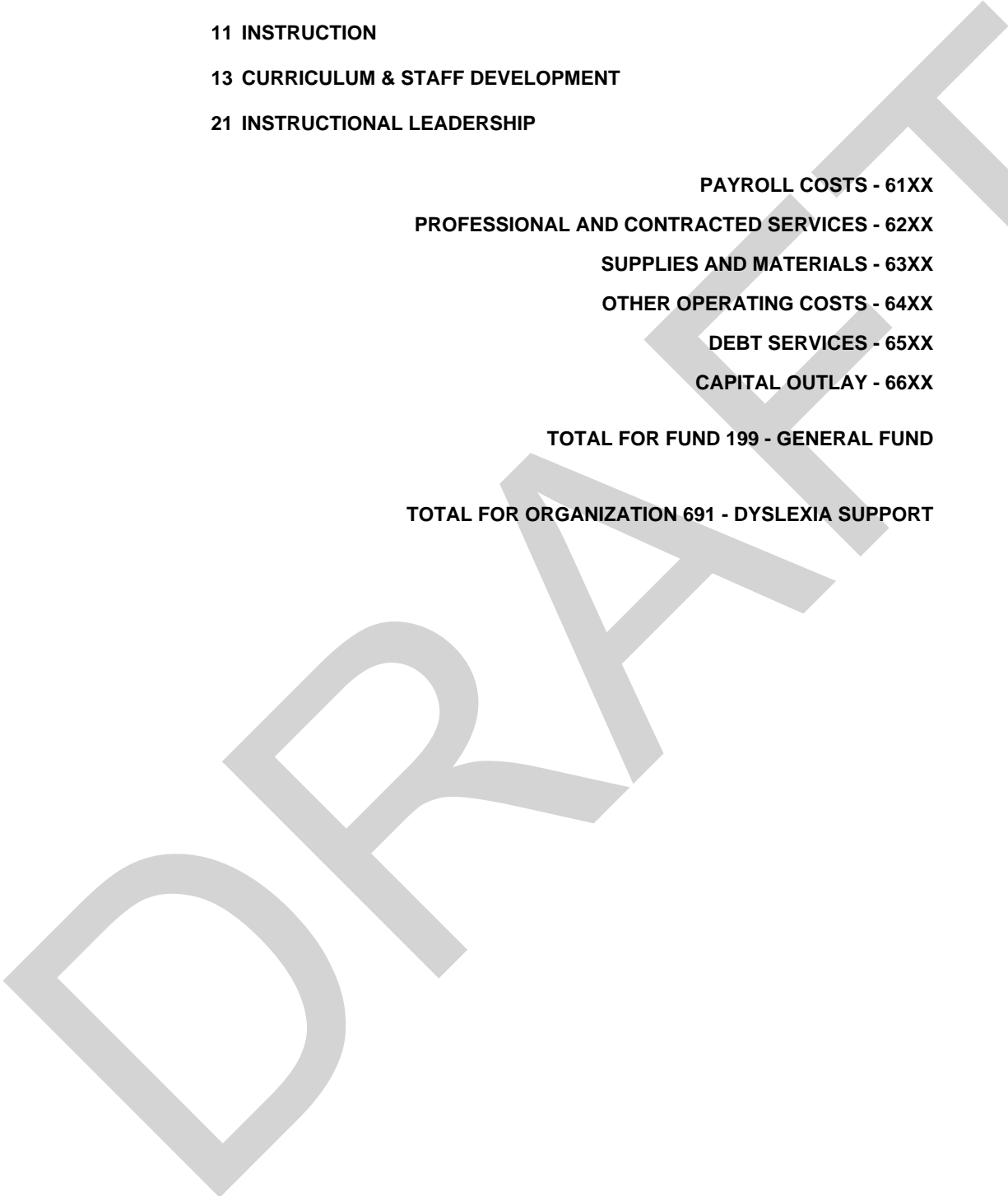


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690	TEEN PARENT SERVICES		
	199	GENERAL FUND	
	11	INSTRUCTION	59,211
	21	INSTRUCTIONAL LEADERSHIP	99,311
	31	GUID, COUNS & EVALUATION SERVS	75,061
	32	SOCIAL WORK SERVICES	80,697
		PAYROLL COSTS - 61XX	225,290
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	50,000
		SUPPLIES AND MATERIALS - 63XX	31,590
		OTHER OPERATING COSTS - 64XX	7,400
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	314,280
		TOTAL FOR ORGANIZATION 690 - TEEN PARENT SERVICES	314,280

ECISD 2024-2025 BUDGET BOOK

691	DYSLEXIA SUPPORT		
	199	GENERAL FUND	
	11	INSTRUCTION	3,498,732
	13	CURRICULUM & STAFF DEVELOPMENT	1,000
	21	INSTRUCTIONAL LEADERSHIP	155,935
		PAYROLL COSTS - 61XX	3,526,667
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	77,500
		OTHER OPERATING COSTS - 64XX	51,500
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,655,667
		TOTAL FOR ORGANIZATION 691 - DYSLEXIA SUPPORT	3,655,667



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693	ENGLISH LEARNERS SUPPORT		
199	GENERAL FUND		
	11 INSTRUCTION		239,111
		PAYROLL COSTS - 61XX	239,111
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	239,111
		TOTAL FOR ORGANIZATION 693 - ENGLISH LEARNERS SUPPORT	239,111

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ECISD 2024-2025 BUDGET BOOK

698	ADVANCED TECHNICAL CENTER		
199	GENERAL FUND		
	11 INSTRUCTION		2,885,643
	13 CURRICULUM & STAFF DEVELOPMENT		40,000
	23 SCHOOL LEADERSHIP		81,235
	31 GUID, COUNS & EVALUATION SERVS		19,512
	36 CO/EXTRACURRICULAR ACTIVITIES		105,000
	51 FACILITIES MAINT & OPERATIONS		244,214
		PAYROLL COSTS - 61XX	2,655,304
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	56,200
		SUPPLIES AND MATERIALS - 63XX	525,500
		OTHER OPERATING COSTS - 64XX	138,600
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,375,604
		TOTAL FOR ORGANIZATION 698 - ADVANCED TECHNICAL CENTER	3,375,604

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699	SUMMER SCHOOL		
199	GENERAL FUND		
	11 INSTRUCTION		2,379,296
	12 INSTRUCTIONAL RES & MEDIA SERV		624
	13 CURRICULUM & STAFF DEVELOPMENT		6,059
	21 INSTRUCTIONAL LEADERSHIP		100
	23 SCHOOL LEADERSHIP		73,287
	31 GUID, COUNS & EVALUATION SERVS		75,307
	33 HEALTH SERVICES		5,341
	36 CO/EXTRACURRICULAR ACTIVITIES		92,388
	51 FACILITIES MAINT & OPERATIONS		731,940
		PAYROLL COSTS - 61XX	2,521,642
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	268,200
		SUPPLIES AND MATERIALS - 63XX	326,300
		OTHER OPERATING COSTS - 64XX	248,200
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	3,364,342
		TOTAL FOR ORGANIZATION 699 - SUMMER SCHOOL	3,364,342

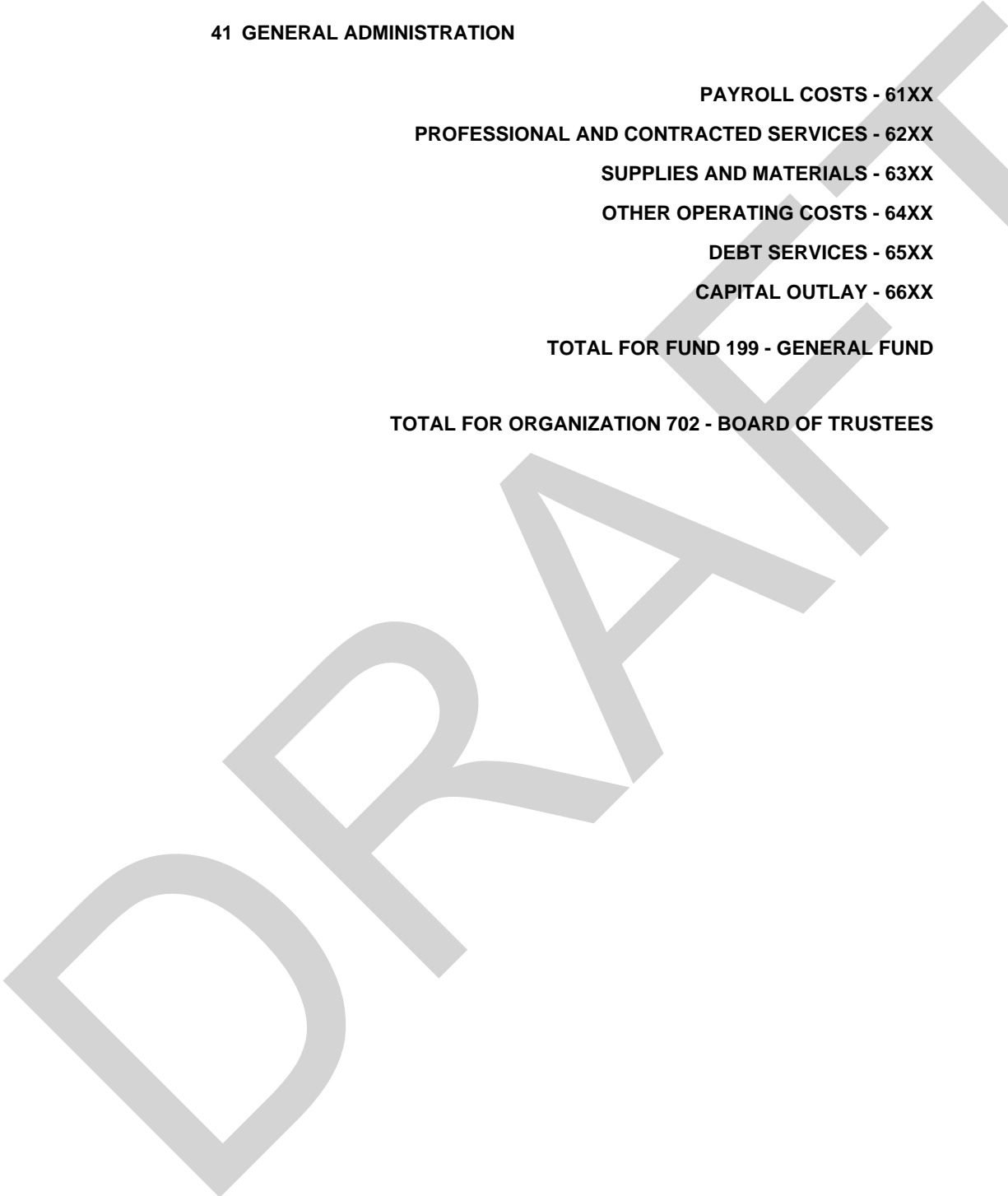
ECISD 2024-2025 BUDGET BOOK

701	SUPERINTENDENT OFFICE	
199	GENERAL FUND	
41	GENERAL ADMINISTRATION	999,349
	PAYROLL COSTS - 61XX	919,549
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	15,800
	SUPPLIES AND MATERIALS - 63XX	7,250
	OTHER OPERATING COSTS - 64XX	56,750
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	999,349
	TOTAL FOR ORGANIZATION 701 - SUPERINTENDENT OFFICE	999,349

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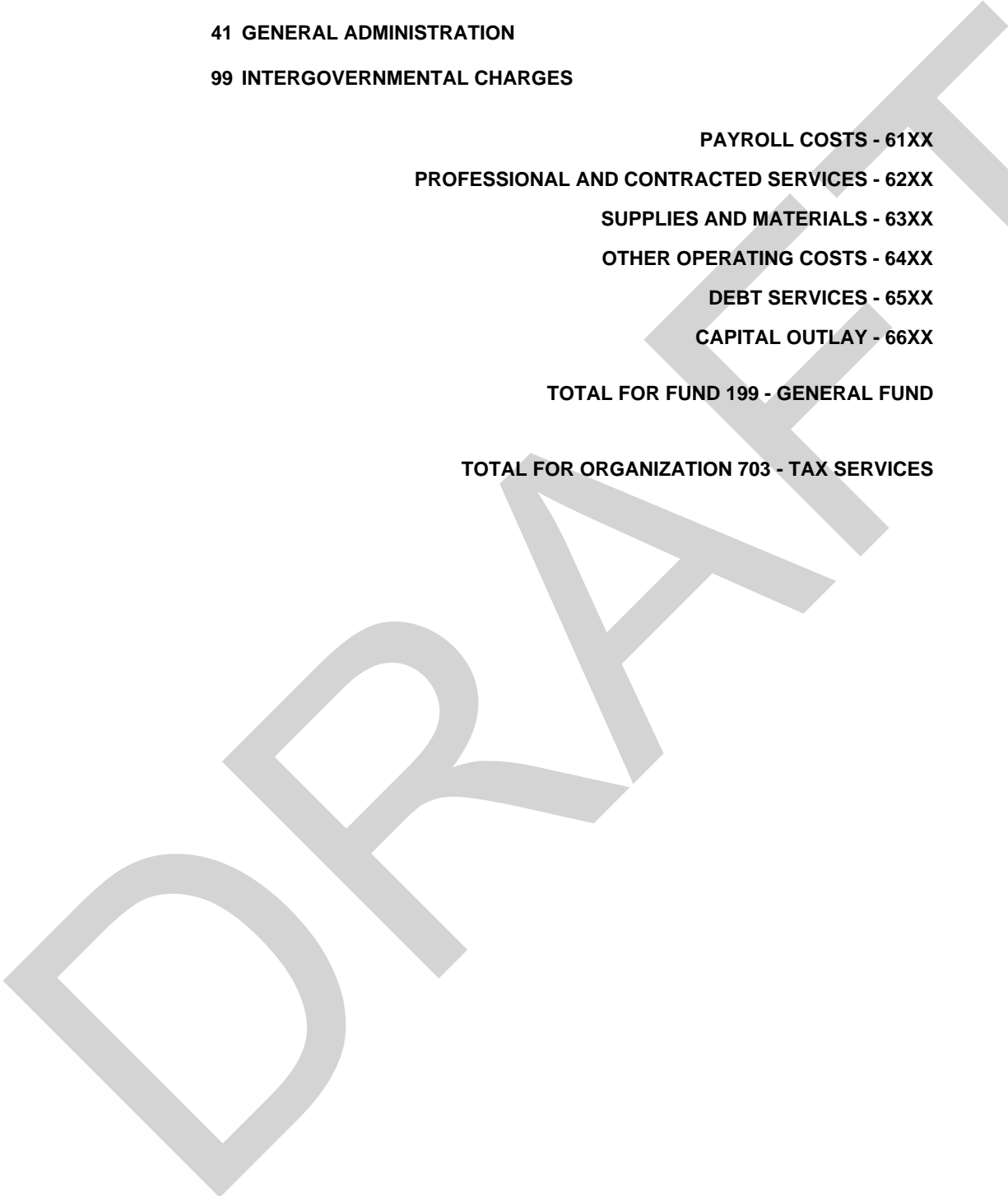
ECISD 2024-2025 BUDGET BOOK

702	BOARD OF TRUSTEES		
199	GENERAL FUND		
	41 GENERAL ADMINISTRATION		490,500
		PAYROLL COSTS - 61XX	0
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	328,600
		SUPPLIES AND MATERIALS - 63XX	2,900
		OTHER OPERATING COSTS - 64XX	159,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	490,500
		TOTAL FOR ORGANIZATION 702 - BOARD OF TRUSTEES	490,500



ECISD 2024-2025 BUDGET BOOK

703	TAX SERVICES		
	199	GENERAL FUND	
		41 GENERAL ADMINISTRATION	467,290
		99 INTERGOVERNMENTAL CHARGES	2,260,855
		PAYROLL COSTS - 61XX	0
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	2,728,145
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	2,728,145
		TOTAL FOR ORGANIZATION 703 - TAX SERVICES	2,728,145



ECISD 2024-2025 BUDGET BOOK

704	INTERNAL AUDIT		
	199	GENERAL FUND	
	41	GENERAL ADMINISTRATION	14,382
		PAYROLL COSTS - 61XX	6,007
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	3,500
		SUPPLIES AND MATERIALS - 63XX	200
		OTHER OPERATING COSTS - 64XX	4,675
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	14,382
		TOTAL FOR ORGANIZATION 704 - INTERNAL AUDIT	14,382

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ECISD 2024-2025 BUDGET BOOK

705	ECISD DEVELOPMENT OFFICE	
199	GENERAL FUND	
	61 COMMUNITY SERVICES	550,548
	PAYROLL COSTS - 61XX	449,448
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	25,200
	SUPPLIES AND MATERIALS - 63XX	38,500
	OTHER OPERATING COSTS - 64XX	37,400
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	550,548
	TOTAL FOR ORGANIZATION 705 - ECISD DEVELOPMENT OFFICE	550,548

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ECISD 2024-2025 BUDGET BOOK

810	ACCELERATION ACADEMIES		
199	GENERAL FUND		
	11 INSTRUCTION		1,500,000
		PAYROLL COSTS - 61XX	0
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	1,500,000
		SUPPLIES AND MATERIALS - 63XX	0
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	1,500,000
		TOTAL FOR ORGANIZATION 810 - ACCELERATION ACADEMIES	1,500,000

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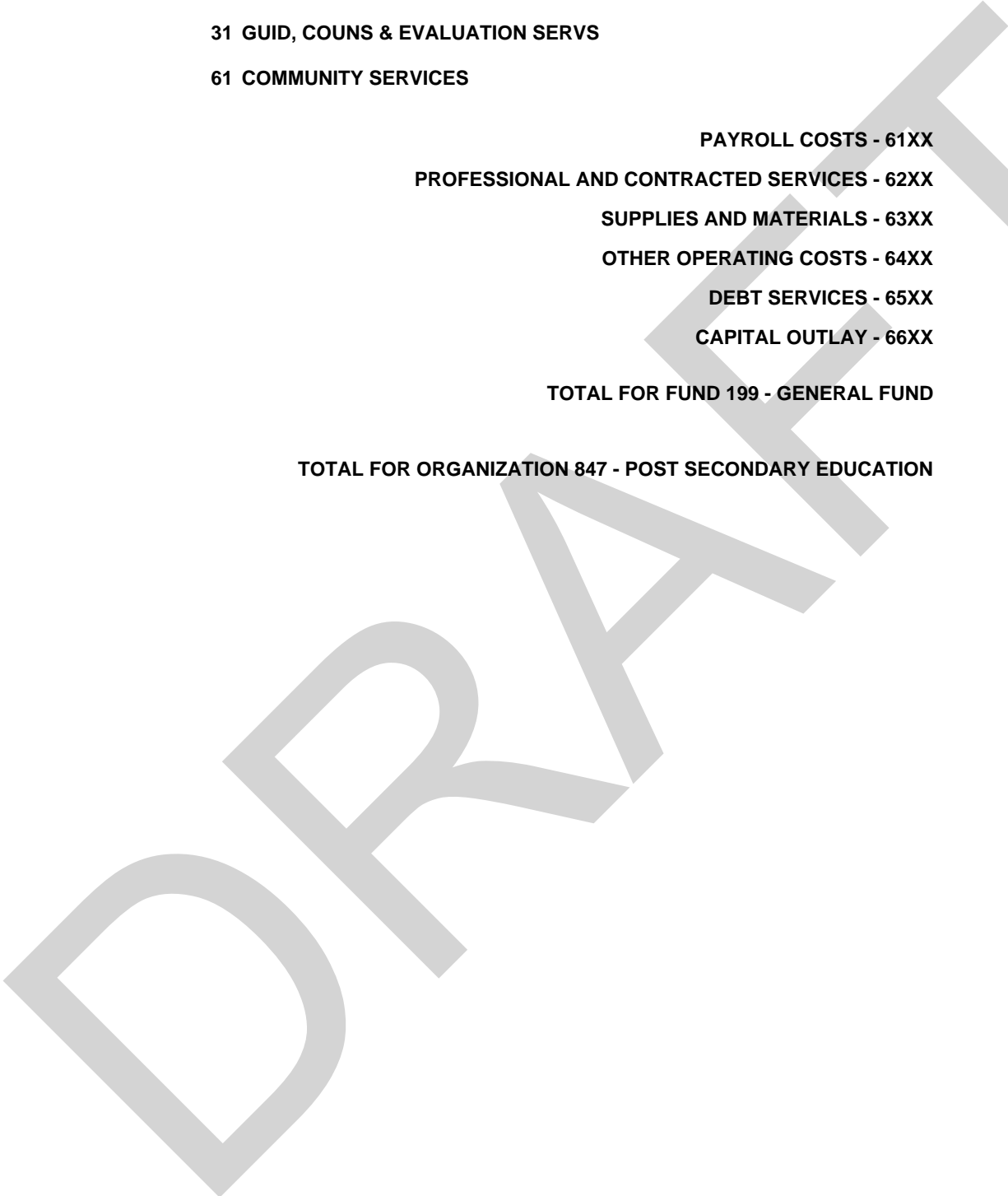
ECISD 2024-2025 BUDGET BOOK

811	DAYCARE		
	199	GENERAL FUND	
	61	COMMUNITY SERVICES	783,319
		PAYROLL COSTS - 61XX	753,319
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	23,000
		OTHER OPERATING COSTS - 64XX	7,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	783,319
		TOTAL FOR ORGANIZATION 811 - DAYCARE	783,319

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ECISD 2024-2025 BUDGET BOOK

847	POST SECONDARY EDUCATION		
199	GENERAL FUND		
	31	GUID, COUNS & EVALUATION SERVS	5,500
	61	COMMUNITY SERVICES	2,000
		PAYROLL COSTS - 61XX	0
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	2,000
		OTHER OPERATING COSTS - 64XX	5,500
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	7,500
		TOTAL FOR ORGANIZATION 847 - POST SECONDARY EDUCATION	7,500



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848	EARLY CHILDHOOD		
199	GENERAL FUND		
11	INSTRUCTION		590,175
13	CURRICULUM & STAFF DEVELOPMENT		107,895
21	INSTRUCTIONAL LEADERSHIP		26,715
		PAYROLL COSTS - 61XX	90,195
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	5,200
		SUPPLIES AND MATERIALS - 63XX	609,825
		OTHER OPERATING COSTS - 64XX	19,565
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	724,785
		TOTAL FOR ORGANIZATION 848 - EARLY CHILDHOOD	724,785

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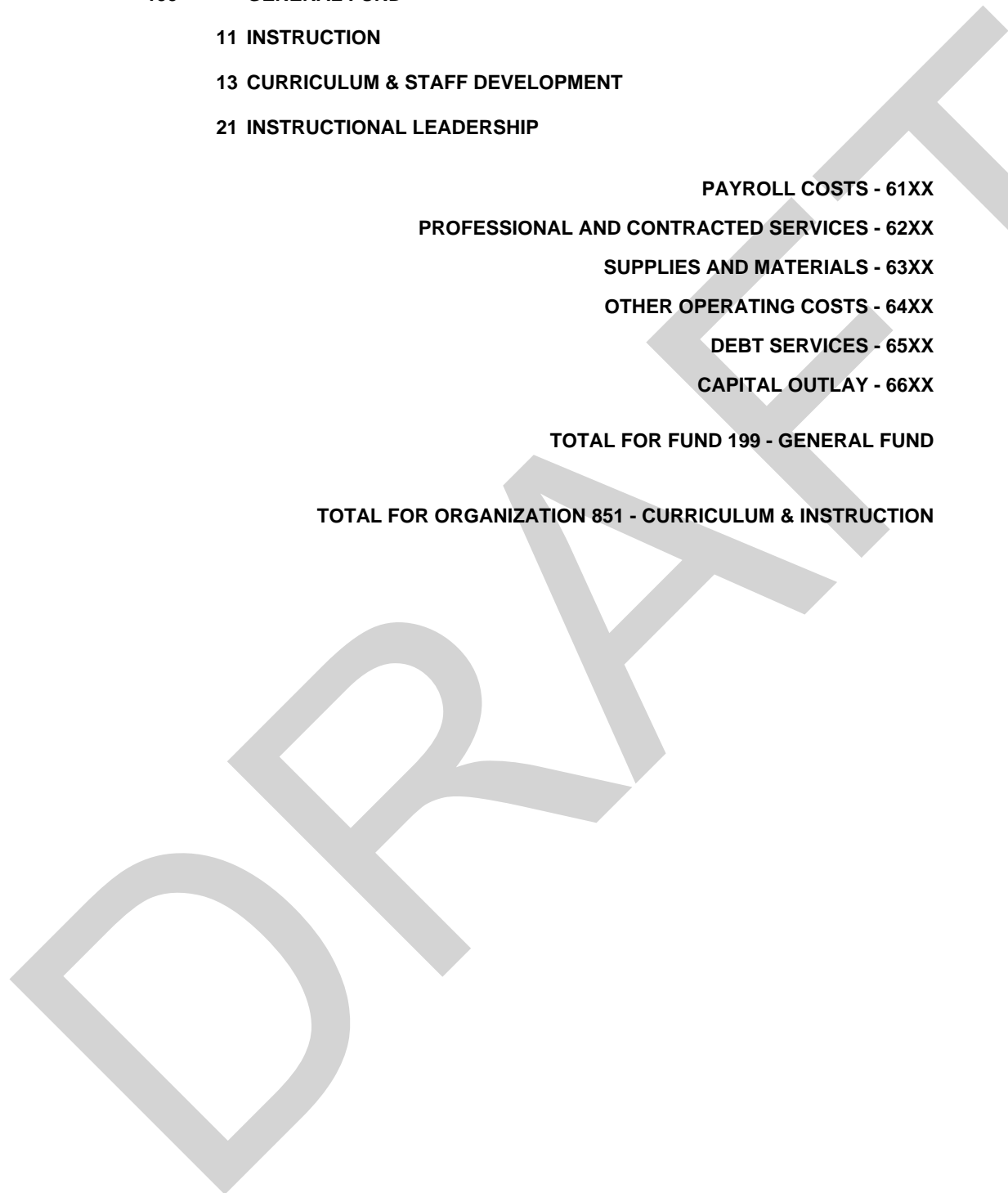
849	LITERACY		
	199	GENERAL FUND	
		11 INSTRUCTION	12,750
		13 CURRICULUM & STAFF DEVELOPMENT	213,900
		21 INSTRUCTIONAL LEADERSHIP	1,395
		36 CO/EXTRACURRICULAR ACTIVITIES	9,000
		61 COMMUNITY SERVICES	1,500
		PAYROLL COSTS - 61XX	0
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	209,600
		SUPPLIES AND MATERIALS - 63XX	13,500
		OTHER OPERATING COSTS - 64XX	15,445
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	238,545
		TOTAL FOR ORGANIZATION 849 - LITERACY	238,545

ECISD 2024-2025 BUDGET BOOK

850	TALENT DEVELOPMENT		
	199	GENERAL FUND	
	11	INSTRUCTION	488
	13	CURRICULUM & STAFF DEVELOPMENT	1,394,922
	23	SCHOOL LEADERSHIP	4,100
		PAYROLL COSTS - 61XX	803,910
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	246,480
		SUPPLIES AND MATERIALS - 63XX	270,800
		OTHER OPERATING COSTS - 64XX	78,320
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	1,399,510
		TOTAL FOR ORGANIZATION 850 - TALENT DEVELOPMENT	1,399,510

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851	CURRICULUM & INSTRUCTION	
199	GENERAL FUND	
11	INSTRUCTION	2,506,522
13	CURRICULUM & STAFF DEVELOPMENT	1,680,084
21	INSTRUCTIONAL LEADERSHIP	535,641
	PAYROLL COSTS - 61XX	1,784,425
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	1,466,175
	SUPPLIES AND MATERIALS - 63XX	1,383,047
	OTHER OPERATING COSTS - 64XX	88,600
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	4,722,247
	TOTAL FOR ORGANIZATION 851 - CURRICULUM & INSTRUCTION	4,722,247



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852	ACCNTABILITY, ASMT, & SCHL IMP	
199	GENERAL FUND	
	31 GUID, COUNS & EVALUATION SERVS	1,466,433
	PAYROLL COSTS - 61XX	628,333
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	187,117
	SUPPLIES AND MATERIALS - 63XX	646,463
	OTHER OPERATING COSTS - 64XX	4,520
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	1,466,433
	TOTAL FOR ORGANIZATION 852 - ACCNTABILITY, ASMT, & SCHL IMP	1,466,433

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853	ECISD POLICY		
199	GENERAL FUND		
	41 GENERAL ADMINISTRATION		67,645
		PAYROLL COSTS - 61XX	54,145
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	6,800
		SUPPLIES AND MATERIALS - 63XX	2,300
		OTHER OPERATING COSTS - 64XX	4,400
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	67,645
		TOTAL FOR ORGANIZATION 853 - ECISD POLICY	67,645

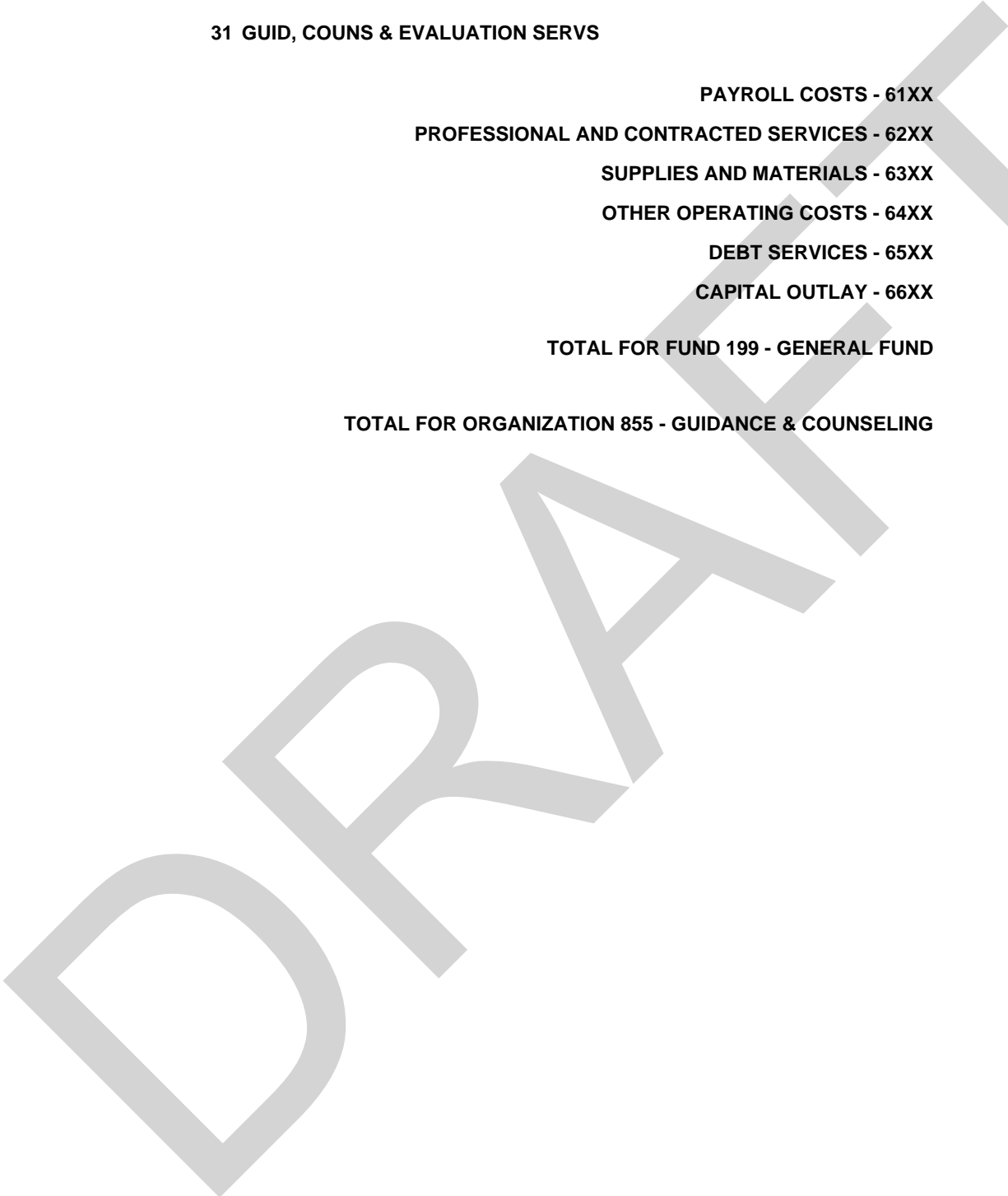
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854	AVID		
	199	GENERAL FUND	
		11 INSTRUCTION	166,055
		13 CURRICULUM & STAFF DEVELOPMENT	145,744
		21 INSTRUCTIONAL LEADERSHIP	14,000
		23 SCHOOL LEADERSHIP	15,000
		31 GUID, COUNS & EVALUATION SERVS	171,457
		PAYROLL COSTS - 61XX	275,021
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	4,000
		SUPPLIES AND MATERIALS - 63XX	165,235
		OTHER OPERATING COSTS - 64XX	68,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	512,256
		TOTAL FOR ORGANIZATION 854 - AVID	512,256

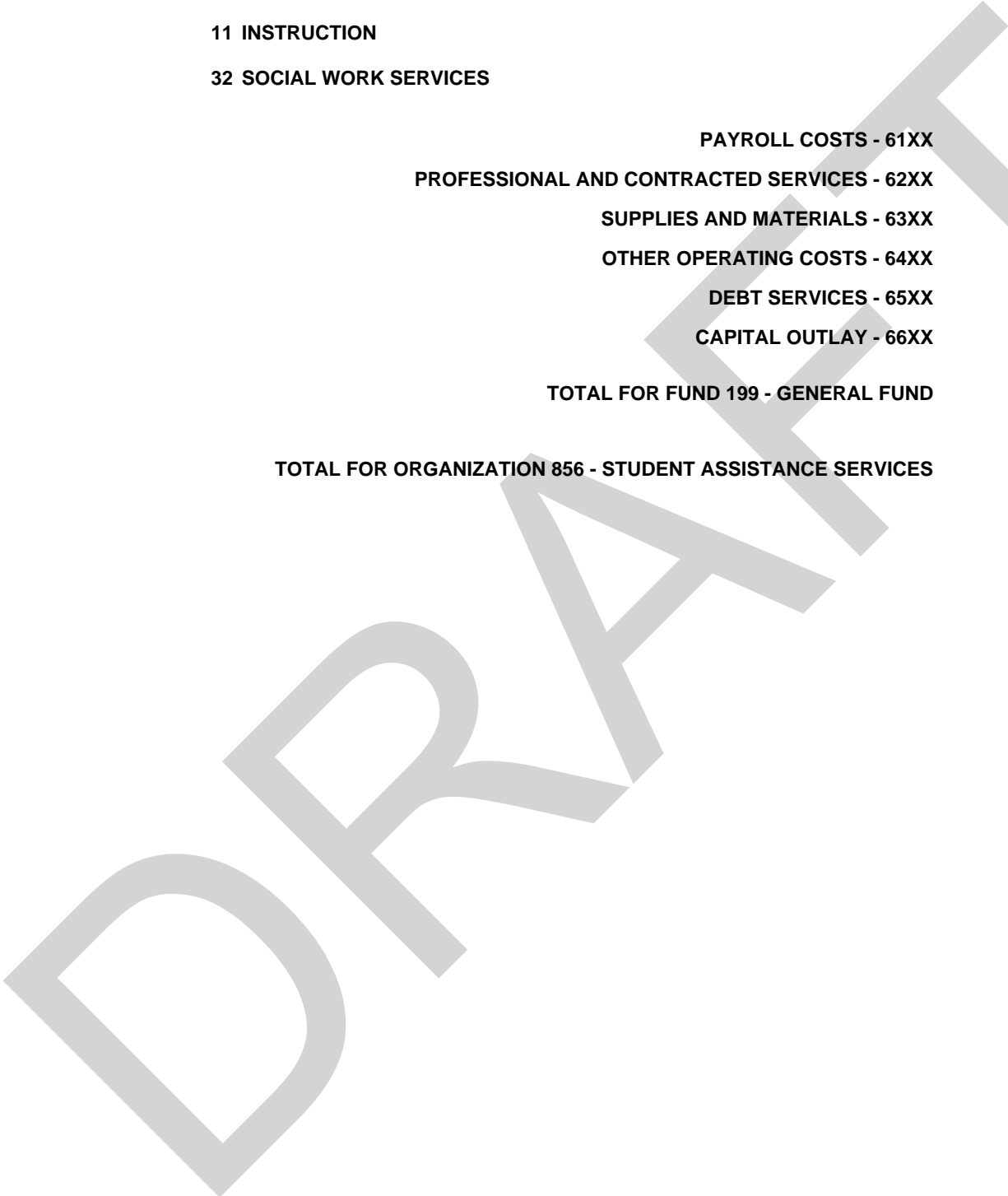
ECISD 2024-2025 BUDGET BOOK

855	GUIDANCE & COUNSELING		
199	GENERAL FUND		
	31 GUID, COUNS & EVALUATION SERVS		1,060,824
		PAYROLL COSTS - 61XX	477,051
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	209,773
		SUPPLIES AND MATERIALS - 63XX	334,000
		OTHER OPERATING COSTS - 64XX	40,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	1,060,824
		TOTAL FOR ORGANIZATION 855 - GUIDANCE & COUNSELING	1,060,824



ECISD 2024-2025 BUDGET BOOK

856	STUDENT ASSISTANCE SERVICES	
199	GENERAL FUND	
11	INSTRUCTION	107,458
32	SOCIAL WORK SERVICES	519,036
	PAYROLL COSTS - 61XX	525,944
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	83,070
	SUPPLIES AND MATERIALS - 63XX	10,600
	OTHER OPERATING COSTS - 64XX	6,880
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	626,494
	TOTAL FOR ORGANIZATION 856 - STUDENT ASSISTANCE SERVICES	626,494



ECISD 2024-2025 BUDGET BOOK

858	CHOICE PROGRAMS		
199	GENERAL FUND		
	21 INSTRUCTIONAL LEADERSHIP		119,288
		PAYROLL COSTS - 61XX	0
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	85,188
		SUPPLIES AND MATERIALS - 63XX	28,600
		OTHER OPERATING COSTS - 64XX	5,500
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	119,288
		TOTAL FOR ORGANIZATION 858 - CHOICE PROGRAMS	119,288

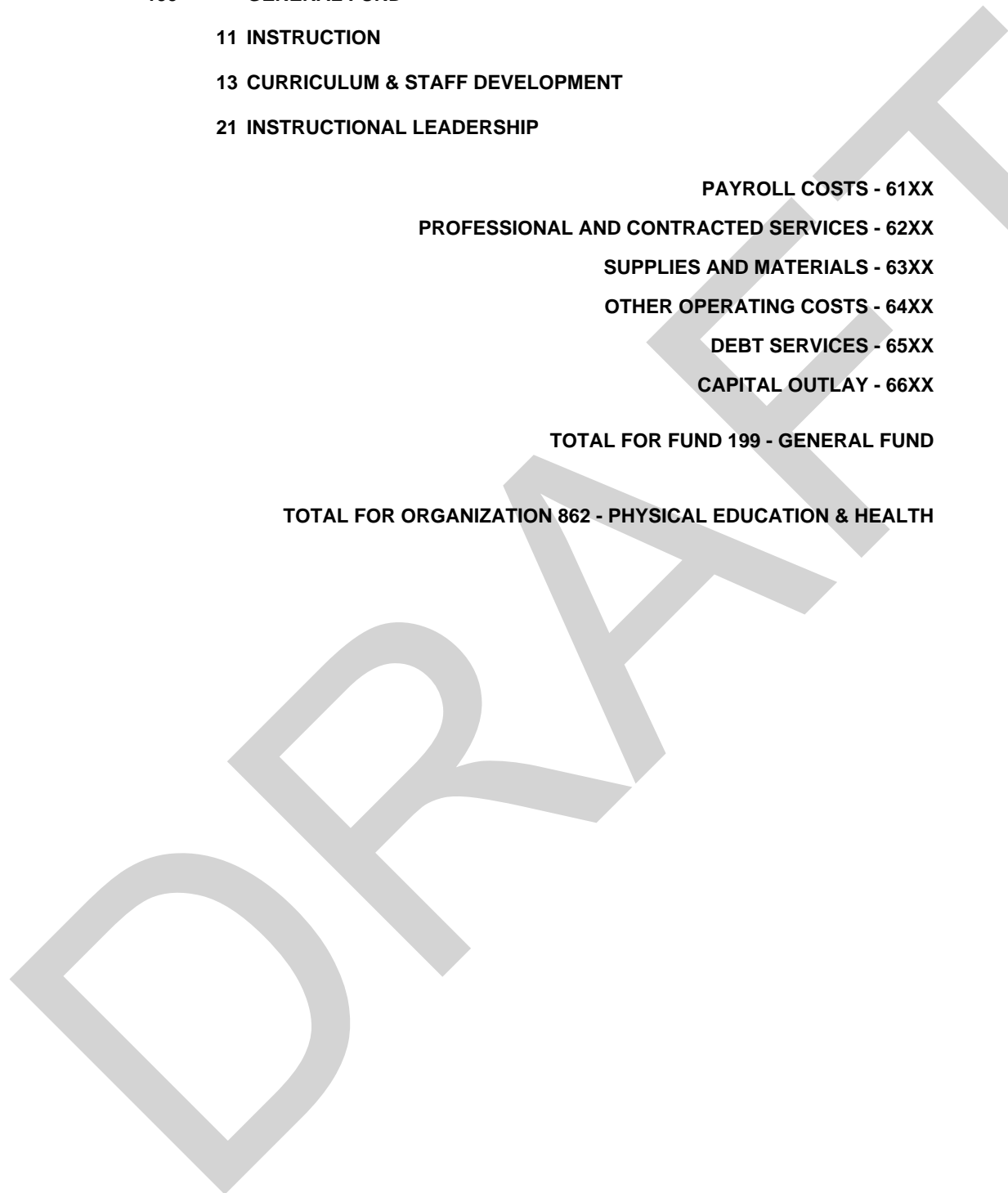
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ECISD 2024-2025 BUDGET BOOK

861	FINE ARTS DEPARTMENT		
199	GENERAL FUND		
	11 INSTRUCTION		171,466
	13 CURRICULUM & STAFF DEVELOPMENT		37,000
	21 INSTRUCTIONAL LEADERSHIP		201,531
	36 CO/EXTRACURRICULAR ACTIVITIES		323,457
		PAYROLL COSTS - 61XX	416,789
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	16,000
		SUPPLIES AND MATERIALS - 63XX	52,300
		OTHER OPERATING COSTS - 64XX	248,365
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	733,454
		TOTAL FOR ORGANIZATION 861 - FINE ARTS DEPARTMENT	733,454

ECISD 2024-2025 BUDGET BOOK

862	PHYSICAL EDUCATION & HEALTH	
199	GENERAL FUND	
	11 INSTRUCTION	15,000
	13 CURRICULUM & STAFF DEVELOPMENT	20,000
	21 INSTRUCTIONAL LEADERSHIP	63,436
	PAYROLL COSTS - 61XX	52,936
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	5,000
	SUPPLIES AND MATERIALS - 63XX	20,000
	OTHER OPERATING COSTS - 64XX	20,500
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	98,436
	TOTAL FOR ORGANIZATION 862 - PHYSICAL EDUCATION & HEALTH	98,436



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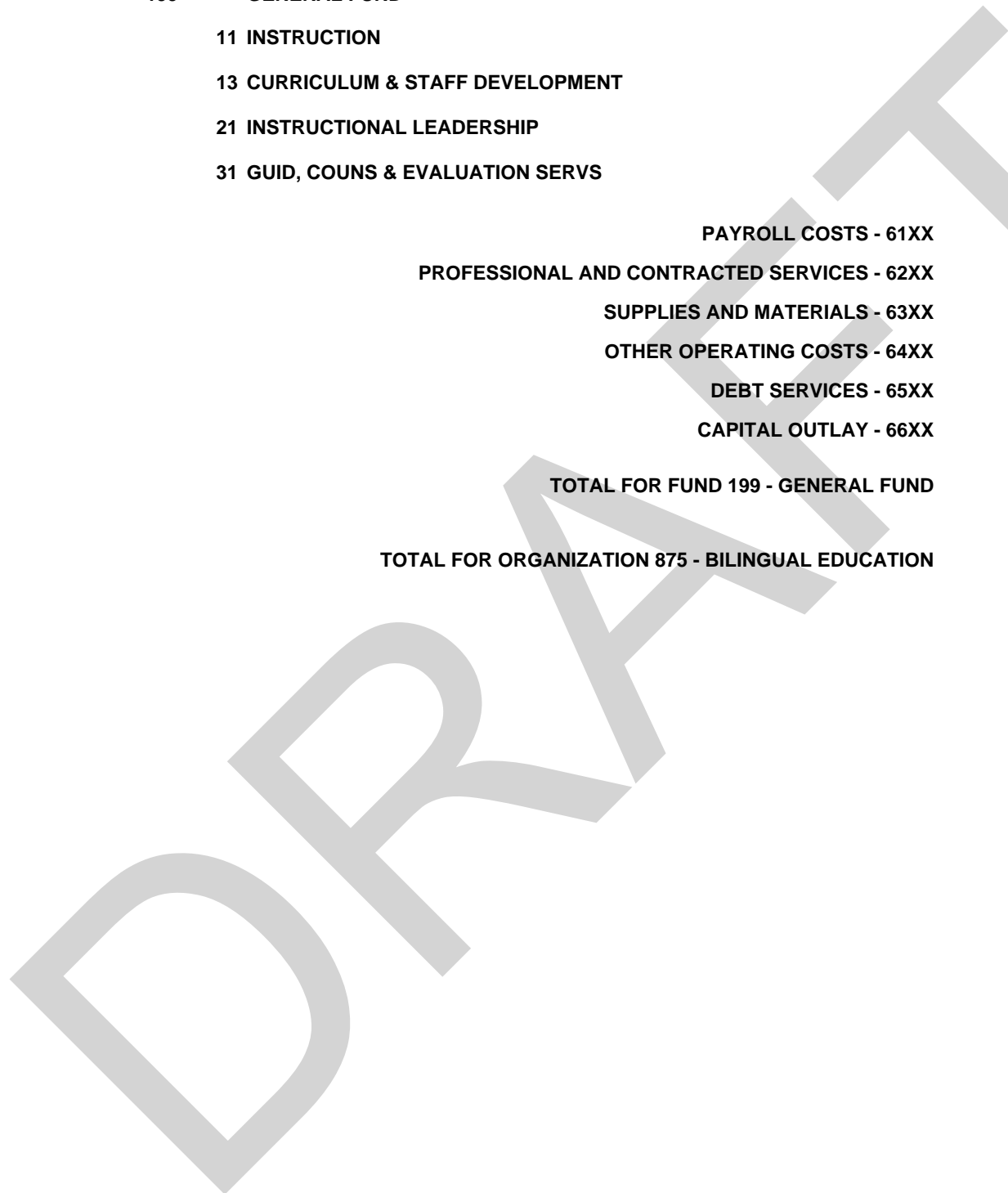
864	INFORMATION TECHNOLOGY	
199	GENERAL FUND	
	11 INSTRUCTION	5,772,008
	12 INSTRUCTIONAL RES & MEDIA SERV	41,800
	13 CURRICULUM & STAFF DEVELOPMENT	769,198
	51 FACILITIES MAINT & OPERATIONS	1,067,276
	53 DATA PROCESSING SERVICES	6,688,548
	PAYROLL COSTS - 61XX	3,993,408
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	4,076,896
	SUPPLIES AND MATERIALS - 63XX	6,183,706
	OTHER OPERATING COSTS - 64XX	84,820
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	14,338,830
	TOTAL FOR ORGANIZATION 864 - INFORMATION TECHNOLOGY	14,338,830

ECISD 2024-2025 BUDGET BOOK

871	SPECIAL EDUCATION		
	199 GENERAL FUND		
	11 INSTRUCTION		6,003,656
	13 CURRICULUM & STAFF DEVELOPMENT		96,577
	21 INSTRUCTIONAL LEADERSHIP		1,253,421
	31 GUID, COUNS & EVALUATION SERVS		4,833,850
	36 CO/EXTRACURRICULAR ACTIVITIES		15,626
	61 COMMUNITY SERVICES		10,000
		PAYROLL COSTS - 61XX	10,750,130
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	1,196,200
		SUPPLIES AND MATERIALS - 63XX	143,800
		OTHER OPERATING COSTS - 64XX	123,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	12,213,130
		TOTAL FOR ORGANIZATION 871 - SPECIAL EDUCATION	12,213,130

ECISD 2024-2025 BUDGET BOOK

875	BILINGUAL EDUCATION		
	199	GENERAL FUND	
		11 INSTRUCTION	290,231
		13 CURRICULUM & STAFF DEVELOPMENT	694,979
		21 INSTRUCTIONAL LEADERSHIP	429,464
		31 GUID, COUNS & EVALUATION SERVS	61,581
		PAYROLL COSTS - 61XX	1,074,755
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	263,000
		SUPPLIES AND MATERIALS - 63XX	90,500
		OTHER OPERATING COSTS - 64XX	48,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	1,476,255
		TOTAL FOR ORGANIZATION 875 - BILINGUAL EDUCATION	1,476,255



ECISD 2024-2025 BUDGET BOOK

876	FEDERAL/TITLE PROGRAMS	
199	GENERAL FUND	
	21 INSTRUCTIONAL LEADERSHIP	181,621
	PAYROLL COSTS - 61XX	169,821
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
	SUPPLIES AND MATERIALS - 63XX	7,300
	OTHER OPERATING COSTS - 64XX	4,500
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	181,621
	TOTAL FOR ORGANIZATION 876 - FEDERAL/TITLE PROGRAMS	181,621

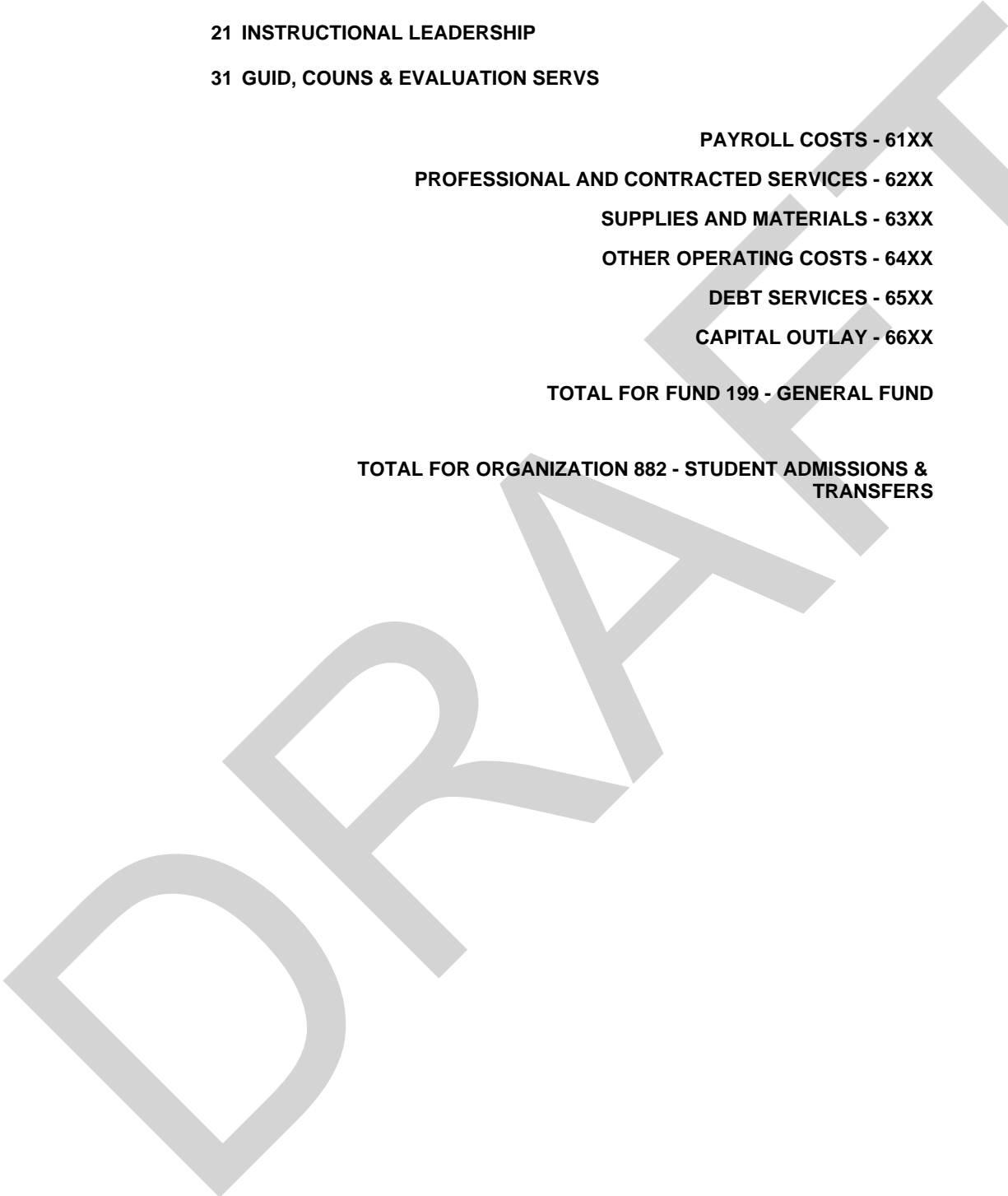
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881	ADVANCED ACADEMIC SERVICES	
199	GENERAL FUND	
11	INSTRUCTION	272,544
13	CURRICULUM & STAFF DEVELOPMENT	923,971
21	INSTRUCTIONAL LEADERSHIP	270,912
23	SCHOOL LEADERSHIP	17,000
31	GUID, COUNS & EVALUATION SERVS	532,290
36	CO/EXTRACURRICULAR ACTIVITIES	49,748
	PAYROLL COSTS - 61XX	1,035,070
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	180,836
	SUPPLIES AND MATERIALS - 63XX	714,134
	OTHER OPERATING COSTS - 64XX	136,425
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	2,066,465
	TOTAL FOR ORGANIZATION 881 - ADVANCED ACADEMIC SERVICES	2,066,465

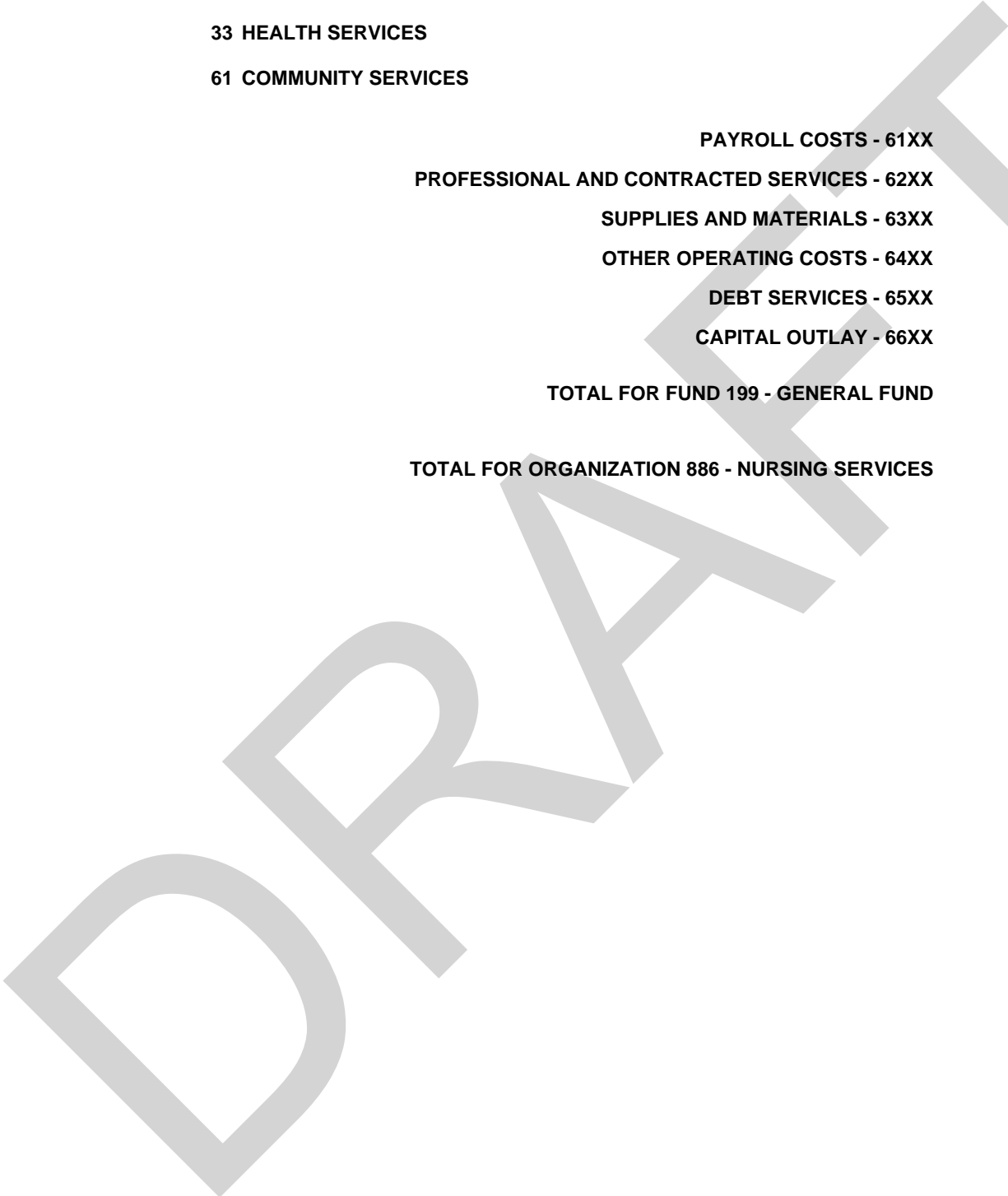
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882	STUDENT ADMISSIONS & TRANSFERS	
199	GENERAL FUND	
21	INSTRUCTIONAL LEADERSHIP	34,807
31	GUID, COUNS & EVALUATION SERVS	63,197
	PAYROLL COSTS - 61XX	91,504
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
	SUPPLIES AND MATERIALS - 63XX	4,500
	OTHER OPERATING COSTS - 64XX	2,000
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	98,004
	TOTAL FOR ORGANIZATION 882 - STUDENT ADMISSIONS & TRANSFERS	98,004



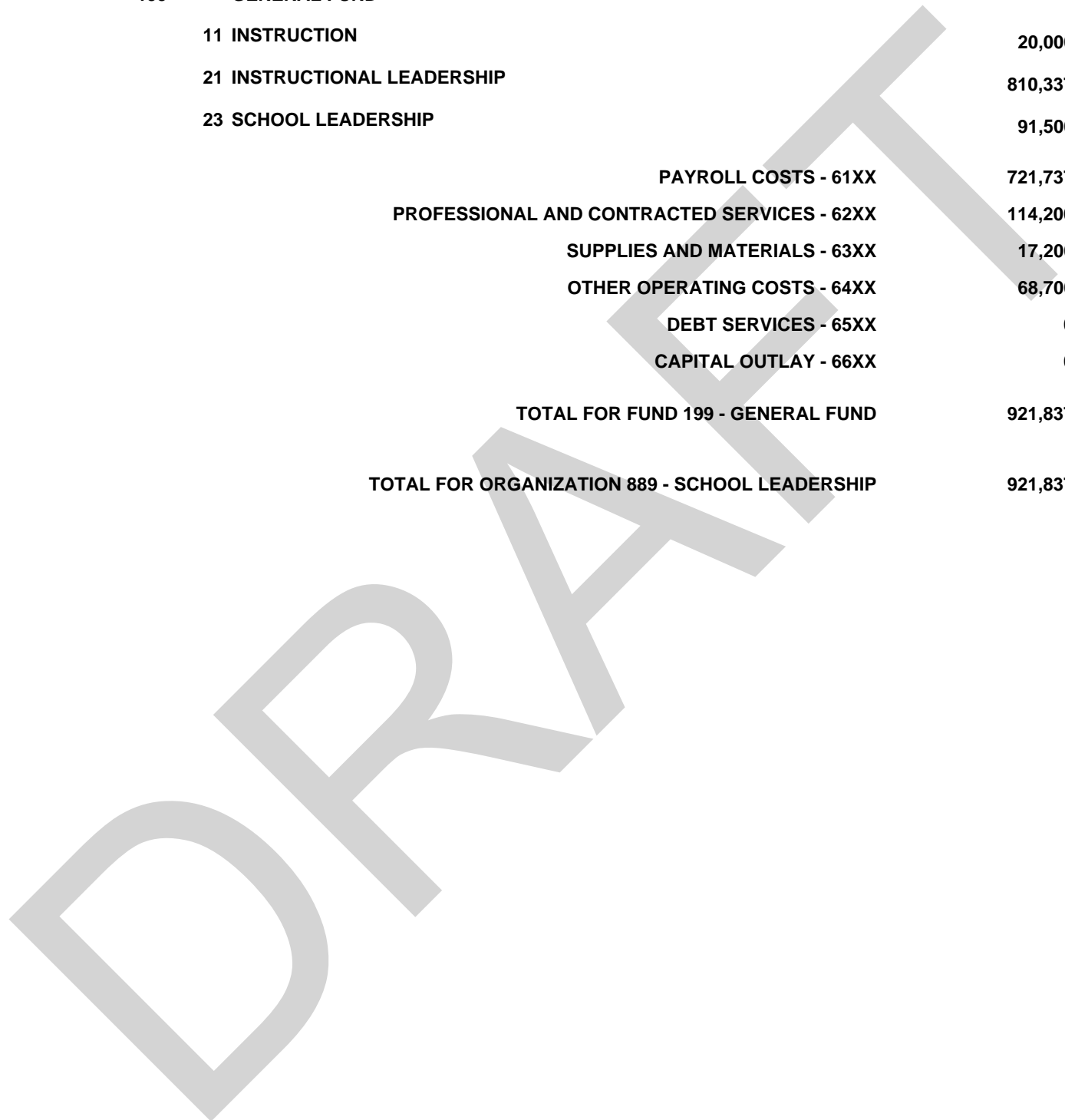
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886	NURSING SERVICES	
199	GENERAL FUND	
33	HEALTH SERVICES	375,271
61	COMMUNITY SERVICES	750
	PAYROLL COSTS - 61XX	295,706
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	16,900
	SUPPLIES AND MATERIALS - 63XX	49,240
	OTHER OPERATING COSTS - 64XX	14,175
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	376,021
	TOTAL FOR ORGANIZATION 886 - NURSING SERVICES	376,021



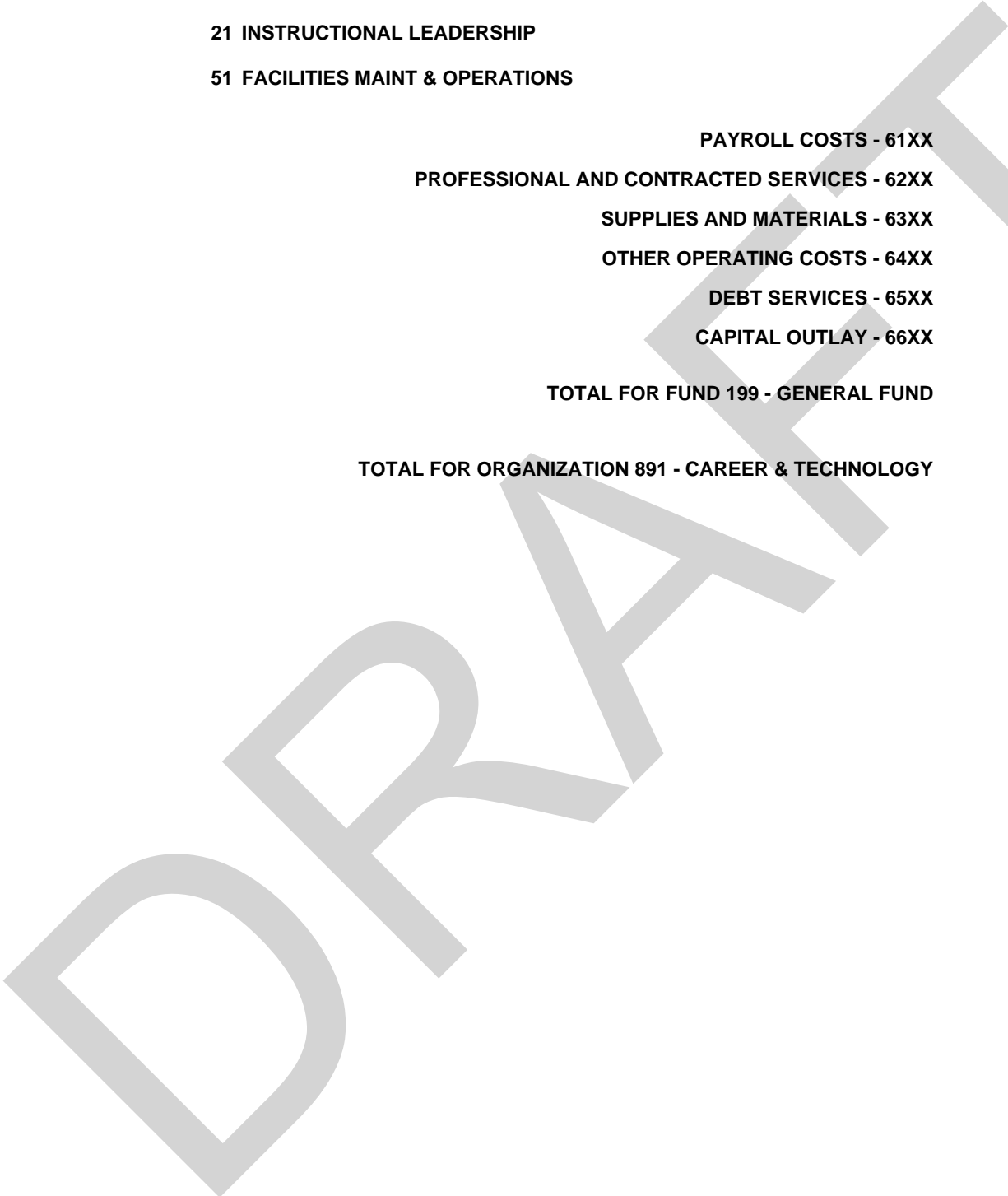
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889	SCHOOL LEADERSHIP		
199	GENERAL FUND		
	11 INSTRUCTION		20,000
	21 INSTRUCTIONAL LEADERSHIP		810,337
	23 SCHOOL LEADERSHIP		91,500
		PAYROLL COSTS - 61XX	721,737
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	114,200
		SUPPLIES AND MATERIALS - 63XX	17,200
		OTHER OPERATING COSTS - 64XX	68,700
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	921,837
		TOTAL FOR ORGANIZATION 889 - SCHOOL LEADERSHIP	921,837



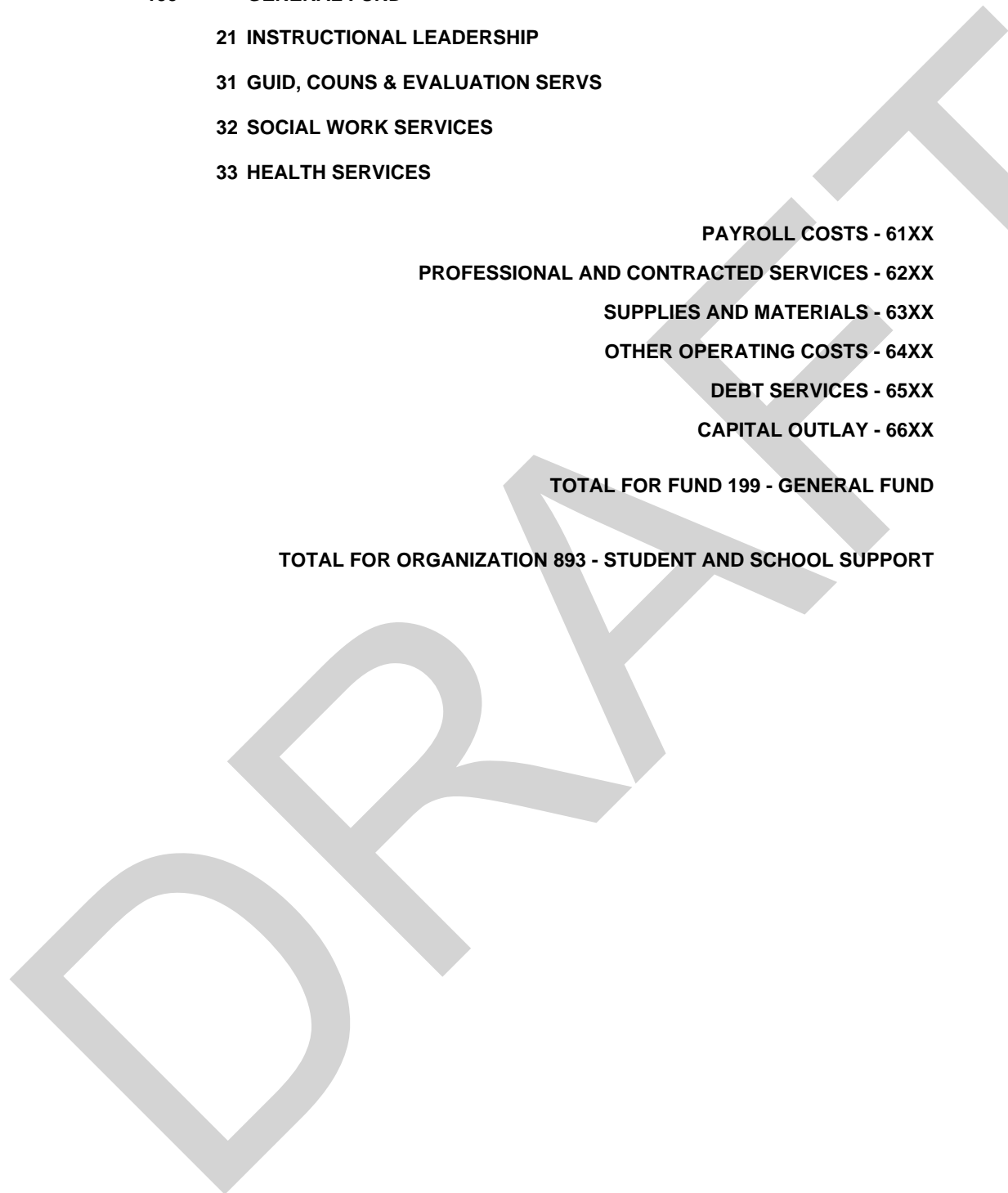
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891	CAREER & TECHNOLOGY		
199	GENERAL FUND		
	21 INSTRUCTIONAL LEADERSHIP		366,058
	51 FACILITIES MAINT & OPERATIONS		47,008
		PAYROLL COSTS - 61XX	394,866
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	9,900
		OTHER OPERATING COSTS - 64XX	8,300
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	413,066
		TOTAL FOR ORGANIZATION 891 - CAREER & TECHNOLOGY	413,066



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893	STUDENT AND SCHOOL SUPPORT		
	199 GENERAL FUND		
	21 INSTRUCTIONAL LEADERSHIP		108,140
	31 GUID, COUNS & EVALUATION SERVS		87,939
	32 SOCIAL WORK SERVICES		87,940
	33 HEALTH SERVICES		90,606
		PAYROLL COSTS - 61XX	350,375
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	10,000
		SUPPLIES AND MATERIALS - 63XX	5,250
		OTHER OPERATING COSTS - 64XX	9,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	374,625
		TOTAL FOR ORGANIZATION 893 - STUDENT AND SCHOOL SUPPORT	374,625



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897	INSTRUCTIONAL MATERIALS	
199	GENERAL FUND	
	41 GENERAL ADMINISTRATION	277,171
	PAYROLL COSTS - 61XX	232,826
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	11,700
	SUPPLIES AND MATERIALS - 63XX	28,920
	OTHER OPERATING COSTS - 64XX	3,725
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	277,171
	TOTAL FOR ORGANIZATION 897 - INSTRUCTIONAL MATERIALS	277,171

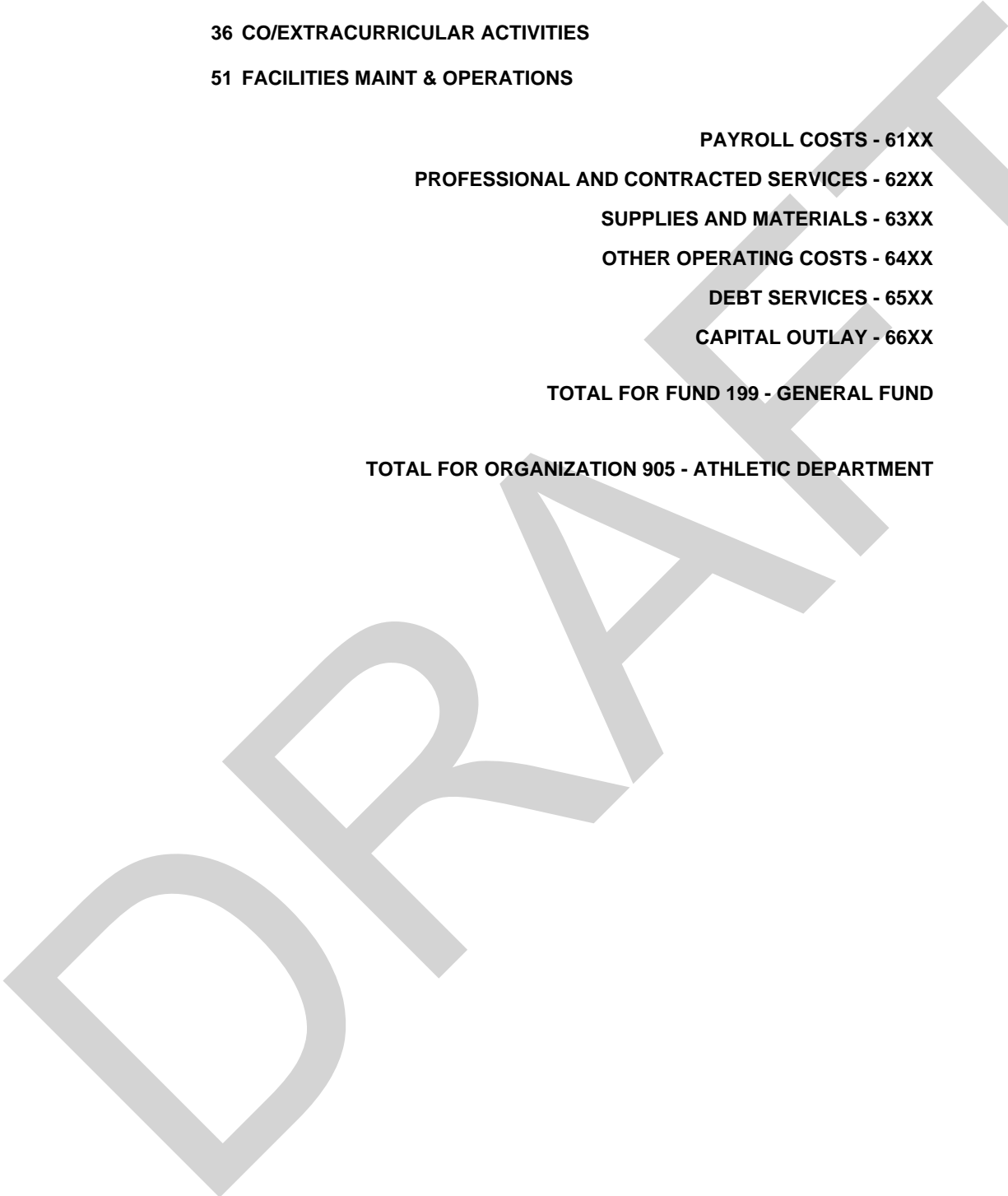
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ECISD 2024-2025 BUDGET BOOK

901	COMMUNICATIONS	
199	GENERAL FUND	
13	CURRICULUM & STAFF DEVELOPMENT	3,750
41	GENERAL ADMINISTRATION	485,249
53	DATA PROCESSING SERVICES	82,027
61	COMMUNITY SERVICES	16,000
	PAYROLL COSTS - 61XX	437,401
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	61,500
	SUPPLIES AND MATERIALS - 63XX	34,800
	OTHER OPERATING COSTS - 64XX	53,325
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	587,026
	TOTAL FOR ORGANIZATION 901 - COMMUNICATIONS	587,026

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905	ATHLETIC DEPARTMENT		
199	GENERAL FUND		
	36 CO/EXTRACURRICULAR ACTIVITIES		2,265,082
	51 FACILITIES MAINT & OPERATIONS		224,948
		PAYROLL COSTS - 61XX	695,280
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	583,000
		SUPPLIES AND MATERIALS - 63XX	183,750
		OTHER OPERATING COSTS - 64XX	1,028,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	2,490,030
		TOTAL FOR ORGANIZATION 905 - ATHLETIC DEPARTMENT	2,490,030



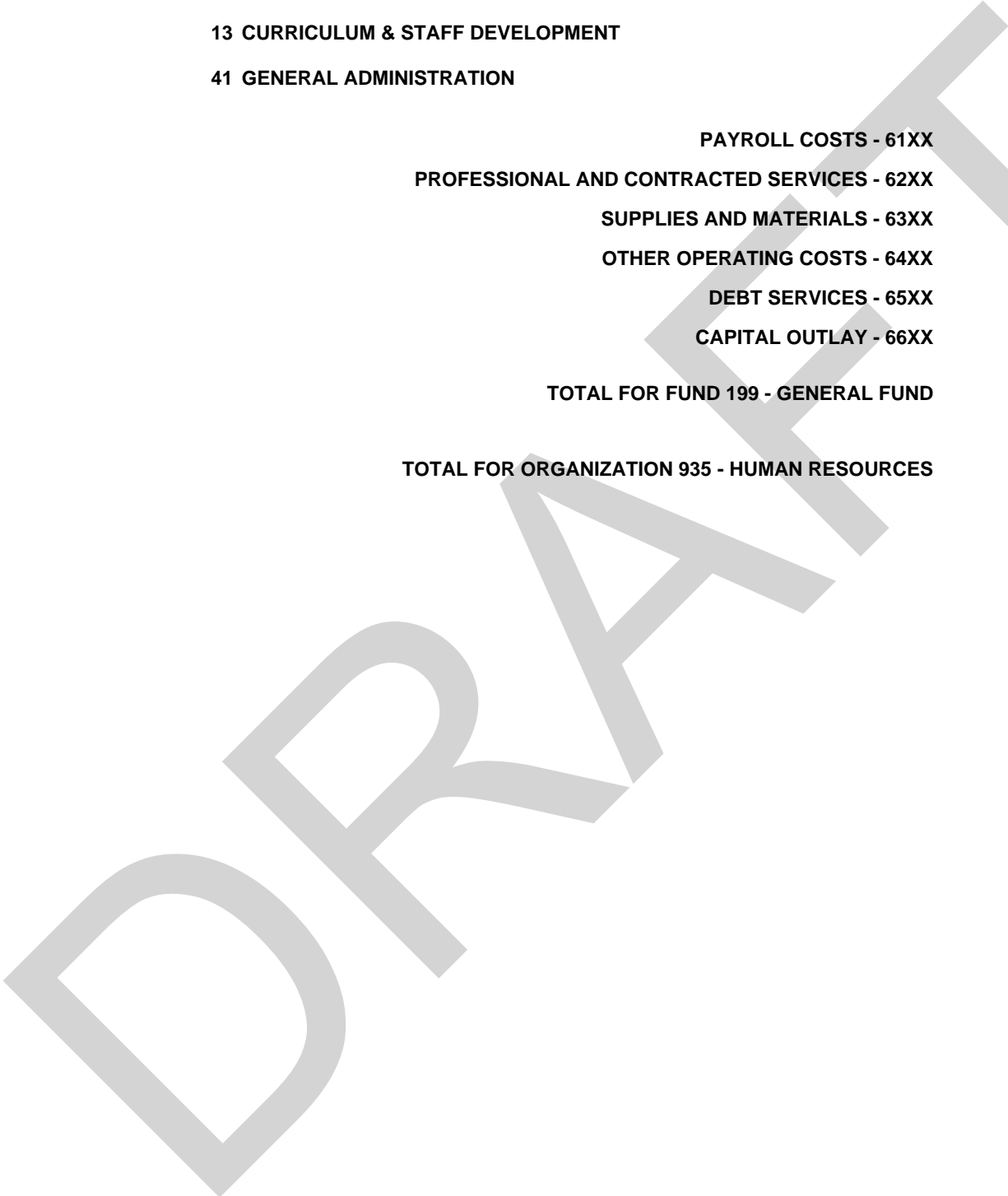
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930	ASSOC SUPT - HC/OP/ATHL	
	199 GENERAL FUND	
	41 GENERAL ADMINISTRATION	294,678
	PAYROLL COSTS - 61XX	269,403
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	4,000
	SUPPLIES AND MATERIALS - 63XX	5,225
	OTHER OPERATING COSTS - 64XX	16,050
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	294,678
	TOTAL FOR ORGANIZATION 930 - ASSOC SUPT - HC/OP/ATHL	294,678

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935	HUMAN RESOURCES		
199	GENERAL FUND		
	13 CURRICULUM & STAFF DEVELOPMENT		20,304
	41 GENERAL ADMINISTRATION		2,158,860
		PAYROLL COSTS - 61XX	1,354,574
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	378,490
		SUPPLIES AND MATERIALS - 63XX	50,600
		OTHER OPERATING COSTS - 64XX	395,500
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	2,179,164
		TOTAL FOR ORGANIZATION 935 - HUMAN RESOURCES	2,179,164



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952	DISTRICT POLICE DEPARTMENT	
199	GENERAL FUND	
	52 SECURITY & MONITORING SERVICES	6,925,903
	PAYROLL COSTS - 61XX	4,783,526
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	470,550
	SUPPLIES AND MATERIALS - 63XX	559,149
	OTHER OPERATING COSTS - 64XX	32,678
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	1,080,000
	TOTAL FOR FUND 199 - GENERAL FUND	6,925,903
	TOTAL FOR ORGANIZATION 952 - DISTRICT POLICE DEPARTMENT	6,925,903

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ECISD 2024-2025 BUDGET BOOK

955	MAINTENANCE SERVICES	
199	GENERAL FUND	
	51 FACILITIES MAINT & OPERATIONS	9,208,407
	PAYROLL COSTS - 61XX	4,906,357
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	2,451,500
	SUPPLIES AND MATERIALS - 63XX	1,845,000
	OTHER OPERATING COSTS - 64XX	5,550
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	9,208,407
	TOTAL FOR ORGANIZATION 955 - MAINTENANCE SERVICES	9,208,407

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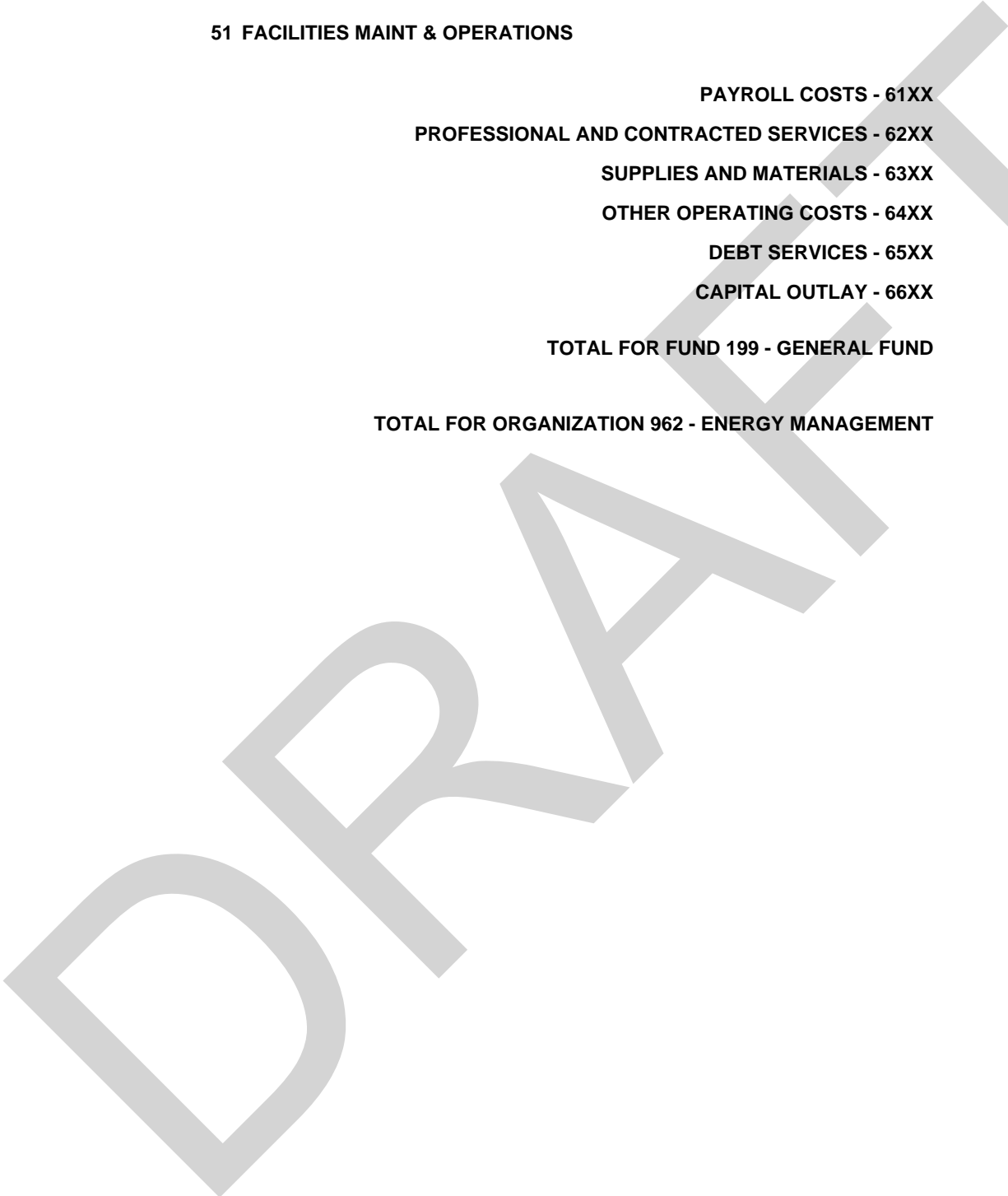
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960	CUSTODIAL SERVICES		
	199	GENERAL FUND	
		51 FACILITIES MAINT & OPERATIONS	2,531,556
		PAYROLL COSTS - 61XX	1,444,856
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	183,000
		SUPPLIES AND MATERIALS - 63XX	856,200
		OTHER OPERATING COSTS - 64XX	2,500
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	45,000
		TOTAL FOR FUND 199 - GENERAL FUND	2,531,556
		TOTAL FOR ORGANIZATION 960 - CUSTODIAL SERVICES	2,531,556

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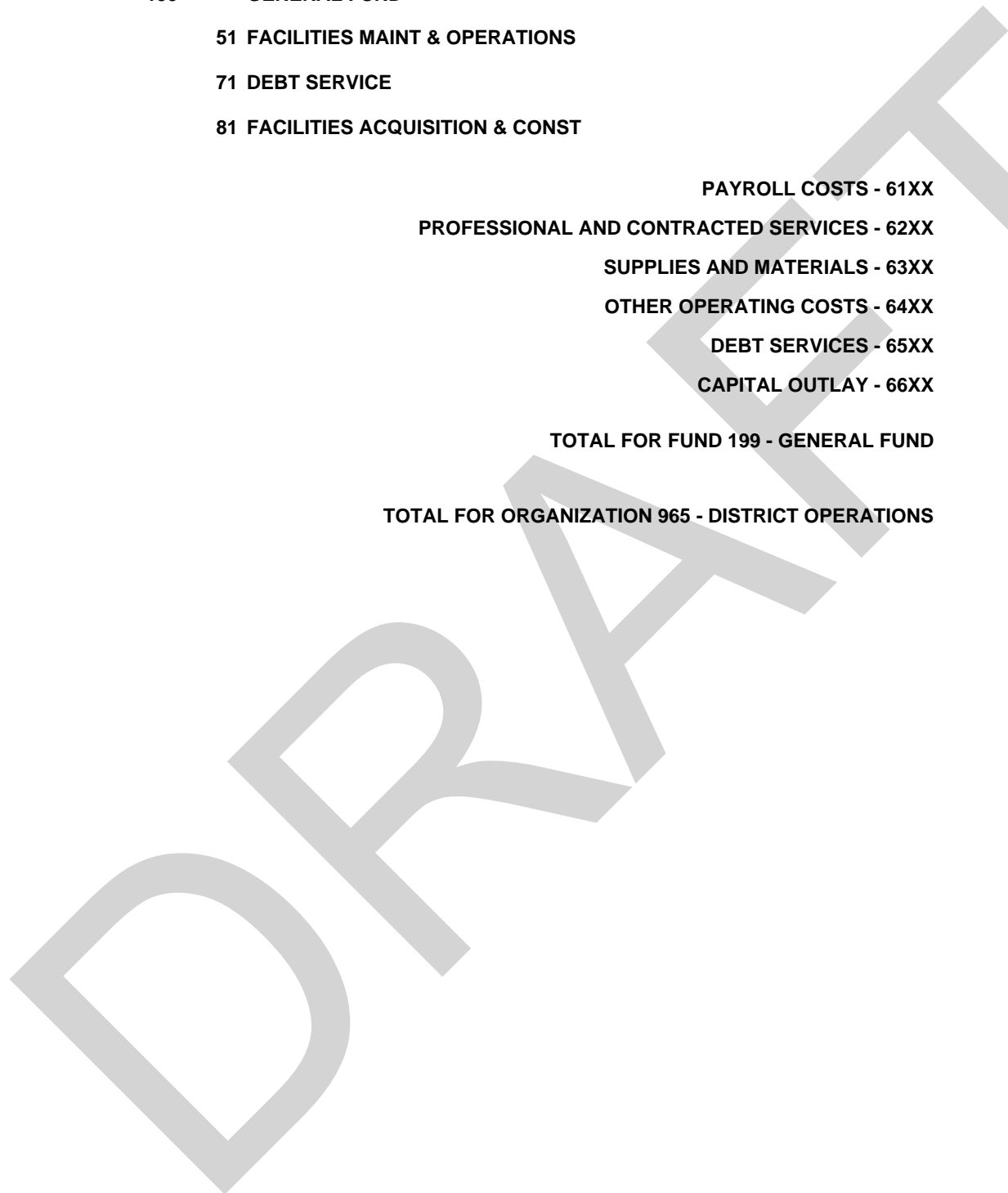
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962	ENERGY MANAGEMENT		
199	GENERAL FUND		
	51 FACILITIES MAINT & OPERATIONS		7,268,646
		PAYROLL COSTS - 61XX	140,966
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	7,114,800
		SUPPLIES AND MATERIALS - 63XX	12,880
		OTHER OPERATING COSTS - 64XX	0
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	7,268,646
		TOTAL FOR ORGANIZATION 962 - ENERGY MANAGEMENT	7,268,646



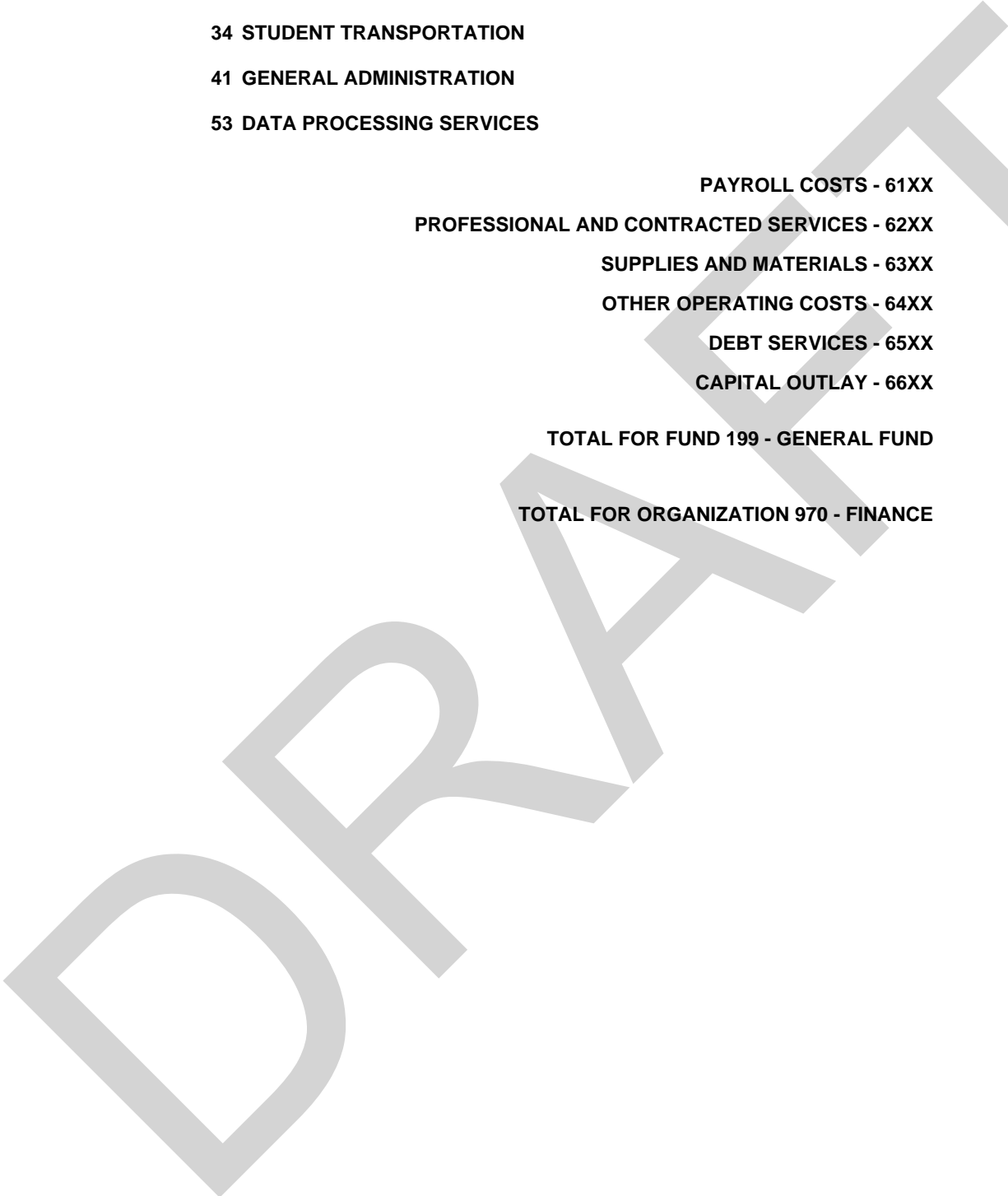
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965	DISTRICT OPERATIONS		
199	GENERAL FUND		
	51 FACILITIES MAINT & OPERATIONS		6,107,725
	71 DEBT SERVICE		40,000
	81 FACILITIES ACQUISITION & CONST		3,000,000
		PAYROLL COSTS - 61XX	489,825
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	923,000
		SUPPLIES AND MATERIALS - 63XX	30,000
		OTHER OPERATING COSTS - 64XX	4,664,900
		DEBT SERVICES - 65XX	40,000
		CAPITAL OUTLAY - 66XX	3,000,000
		TOTAL FOR FUND 199 - GENERAL FUND	9,147,725
		TOTAL FOR ORGANIZATION 965 - DISTRICT OPERATIONS	9,147,725



ECISD 2024-2025 BUDGET BOOK

970	FINANCE		
	199	GENERAL FUND	
		34 STUDENT TRANSPORTATION	219,884
		41 GENERAL ADMINISTRATION	1,651,067
		53 DATA PROCESSING SERVICES	70,679
		PAYROLL COSTS - 61XX	1,335,650
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	119,000
		SUPPLIES AND MATERIALS - 63XX	28,500
		OTHER OPERATING COSTS - 64XX	458,480
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	1,941,630
		TOTAL FOR ORGANIZATION 970 - FINANCE	1,941,630



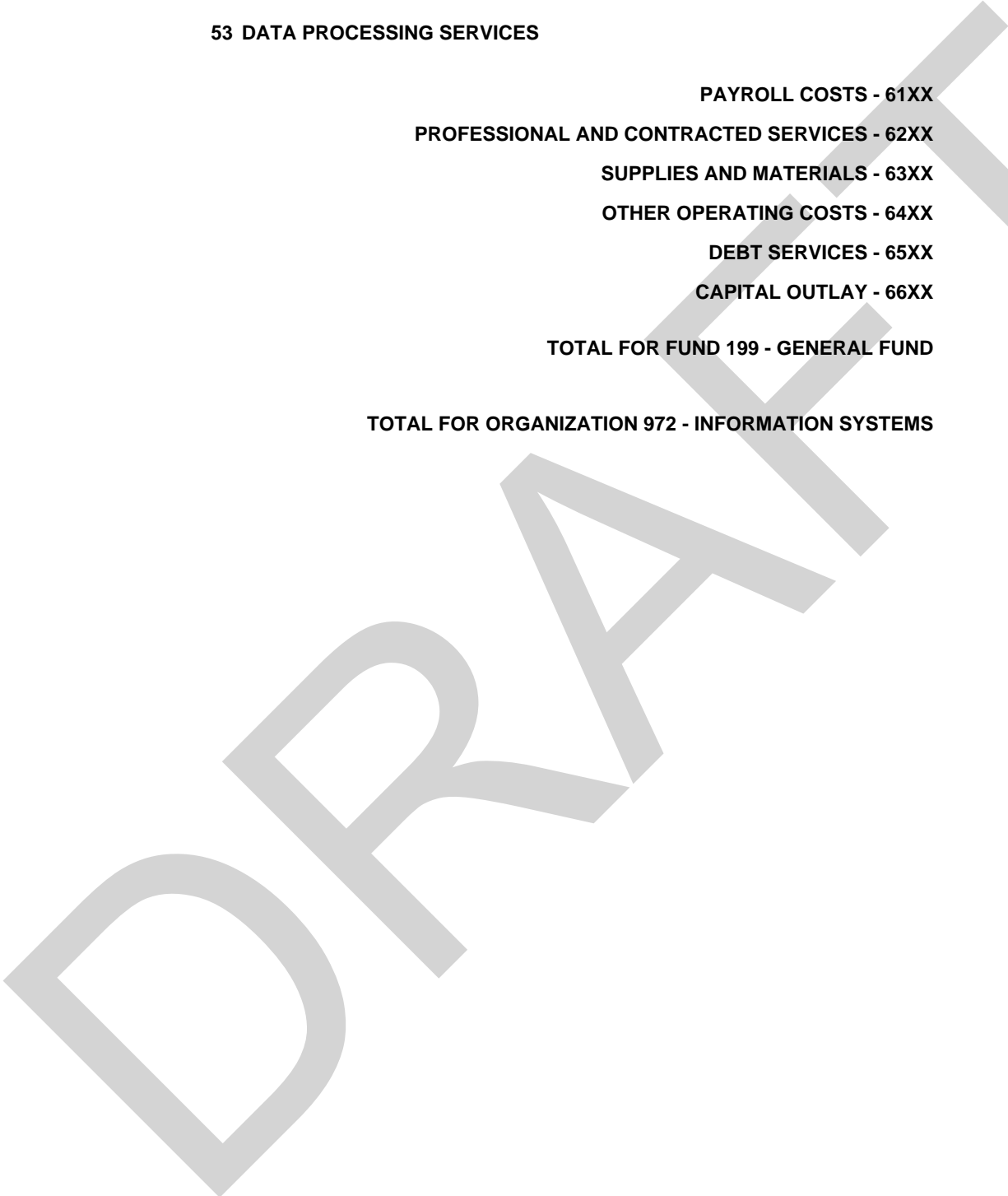
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971	PURCHASING		
	199	GENERAL FUND	
		41 GENERAL ADMINISTRATION	378,587
		PAYROLL COSTS - 61XX	318,487
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	850
		SUPPLIES AND MATERIALS - 63XX	33,850
		OTHER OPERATING COSTS - 64XX	25,400
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	378,587
		TOTAL FOR ORGANIZATION 971 - PURCHASING	378,587

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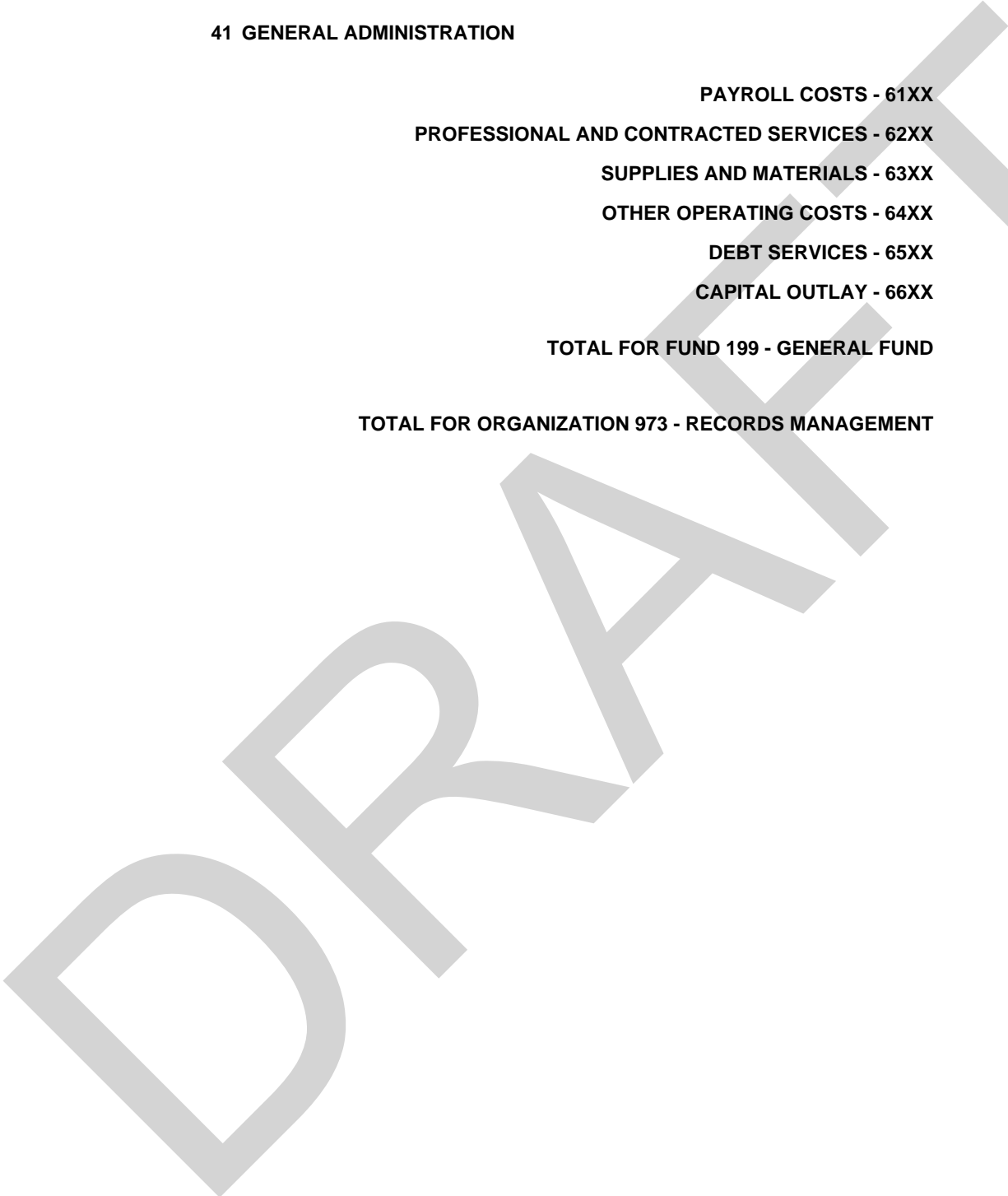
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972	INFORMATION SYSTEMS		
199	GENERAL FUND		
	53 DATA PROCESSING SERVICES		2,052,470
		PAYROLL COSTS - 61XX	1,436,370
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	176,000
		SUPPLIES AND MATERIALS - 63XX	413,100
		OTHER OPERATING COSTS - 64XX	27,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	2,052,470
		TOTAL FOR ORGANIZATION 972 - INFORMATION SYSTEMS	2,052,470



ECISD 2024-2025 BUDGET BOOK

973	RECORDS MANAGEMENT		
199	GENERAL FUND		
	41 GENERAL ADMINISTRATION		92,767
		PAYROLL COSTS - 61XX	54,567
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	700
		SUPPLIES AND MATERIALS - 63XX	34,500
		OTHER OPERATING COSTS - 64XX	3,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	92,767
		TOTAL FOR ORGANIZATION 973 - RECORDS MANAGEMENT	92,767



ECISD 2024-2025 BUDGET BOOK

974	SCHOOL NUTRITION		
	240	SCHOOL NUTRITION	
		35 FOOD SERVICE	14,590,106
		PAYROLL COSTS - 61XX	2,995,650
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	166,000
		SUPPLIES AND MATERIALS - 63XX	11,256,956
		OTHER OPERATING COSTS - 64XX	101,500
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	70,000
		TOTAL FOR FUND 240 - SCHOOL NUTRITION	14,590,106
		TOTAL FOR ORGANIZATION 974 - SCHOOL NUTRITION	14,590,106

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ECISD 2024-2025 BUDGET BOOK

975	BUSINESS OPERATIONS WAREHOUSE	
199	GENERAL FUND	
	41 GENERAL ADMINISTRATION	32,323
	51 FACILITIES MAINT & OPERATIONS	554,371
	71 DEBT SERVICE	48,000
	PAYROLL COSTS - 61XX	492,494
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	2,700
	SUPPLIES AND MATERIALS - 63XX	87,000
	OTHER OPERATING COSTS - 64XX	4,500
	DEBT SERVICES - 65XX	48,000
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	634,694
	TOTAL FOR ORGANIZATION 975 - BUSINESS OPERATIONS WAREHOUSE	634,694

ECISD 2024-2025 BUDGET BOOK

976	PAYROLL		
	199	GENERAL FUND	
	41	GENERAL ADMINISTRATION	601,017
		PAYROLL COSTS - 61XX	581,017
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
		SUPPLIES AND MATERIALS - 63XX	15,545
		OTHER OPERATING COSTS - 64XX	4,455
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	601,017
		TOTAL FOR ORGANIZATION 976 - PAYROLL	601,017

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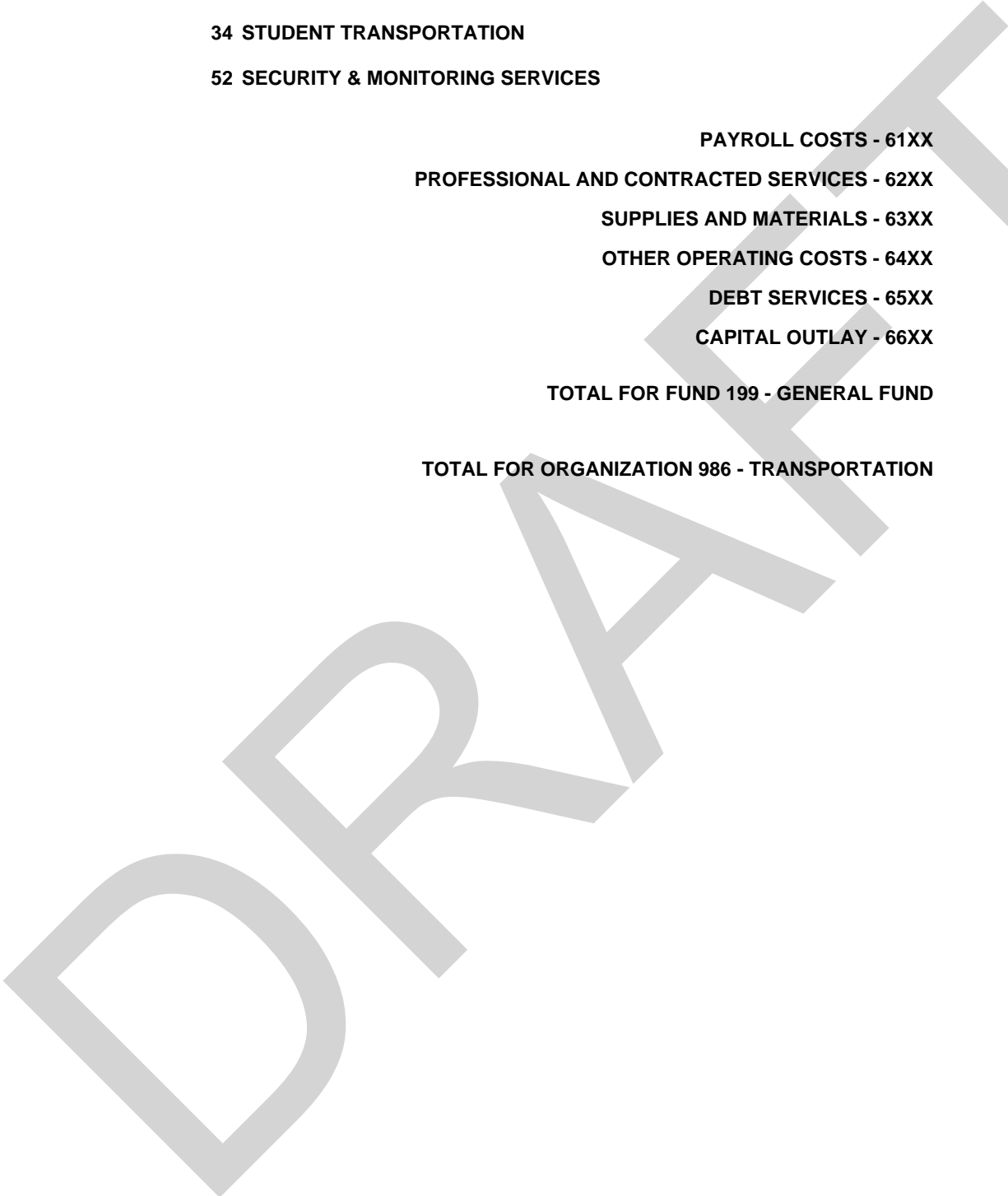
ECISD 2024-2025 BUDGET BOOK

978	BENEFITS AND RISK MANAGEMENT	
199	GENERAL FUND	
	41 GENERAL ADMINISTRATION	261,899
	PAYROLL COSTS - 61XX	239,799
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	6,000
	SUPPLIES AND MATERIALS - 63XX	10,000
	OTHER OPERATING COSTS - 64XX	6,100
	DEBT SERVICES - 65XX	0
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 199 - GENERAL FUND	261,899
	TOTAL FOR ORGANIZATION 978 - BENEFITS AND RISK MANAGEMENT	261,899

DRAFT

ECISD 2024-2025 BUDGET BOOK

986	TRANSPORTATION		
199	GENERAL FUND		
	34	STUDENT TRANSPORTATION	11,009,929
	52	SECURITY & MONITORING SERVICES	101,874
		PAYROLL COSTS - 61XX	7,276,503
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	303,500
		SUPPLIES AND MATERIALS - 63XX	2,073,800
		OTHER OPERATING COSTS - 64XX	58,000
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	1,400,000
		TOTAL FOR FUND 199 - GENERAL FUND	11,111,803
		TOTAL FOR ORGANIZATION 986 - TRANSPORTATION	11,111,803



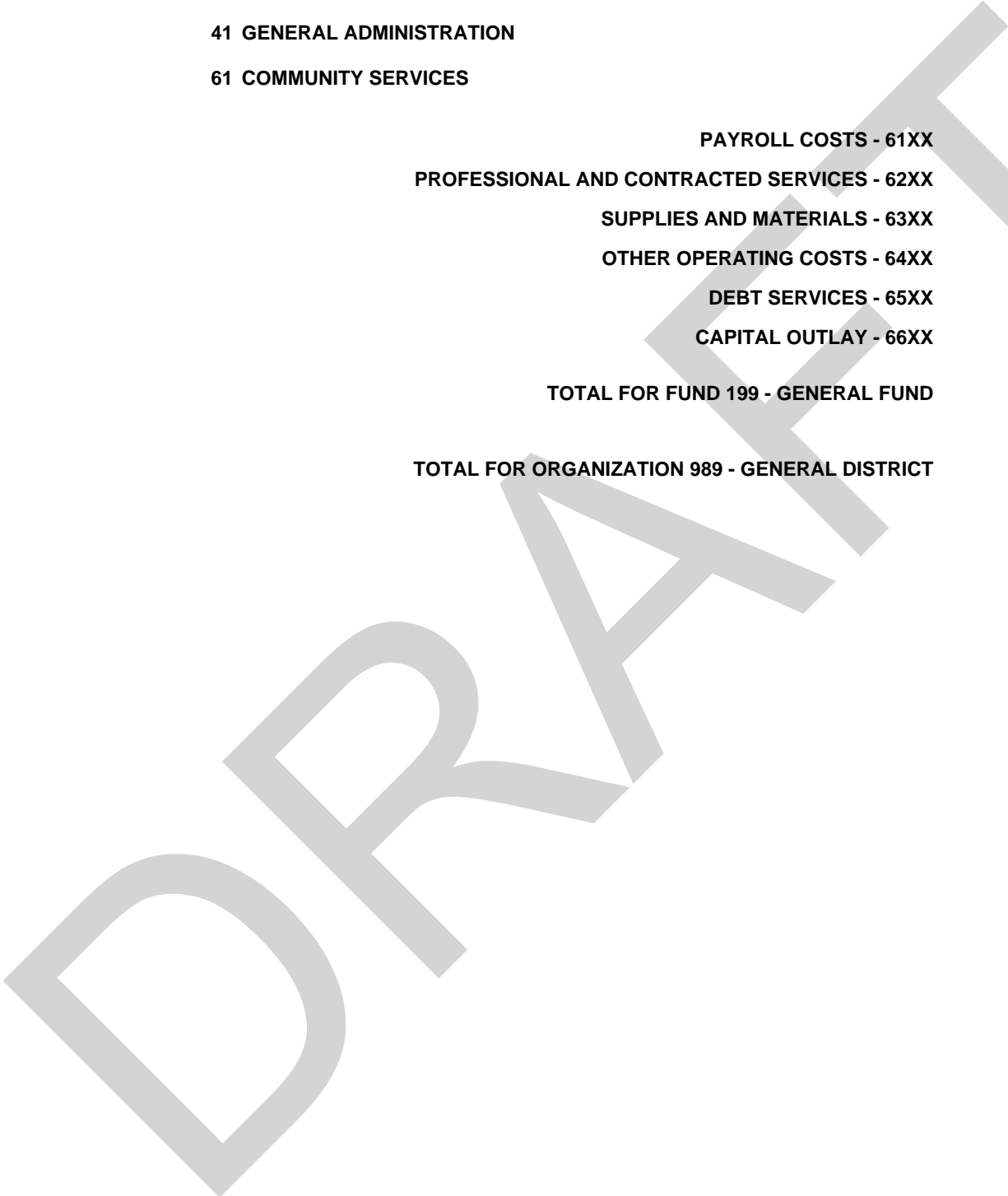
ECISD 2024-2025 BUDGET BOOK

987	TRANSPORTATION CREDITS		
199	GENERAL FUND		
	34 STUDENT TRANSPORTATION		(1,500,000)
		PAYROLL COSTS - 61XX	(940,000)
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	(25,000)
		SUPPLIES AND MATERIALS - 63XX	(510,000)
		OTHER OPERATING COSTS - 64XX	(25,000)
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	(1,500,000)
		TOTAL FOR ORGANIZATION 987 - TRANSPORTATION CREDITS	(1,500,000)

DRAFT

ECISD 2024-2025 BUDGET BOOK

989	GENERAL DISTRICT		
199	GENERAL FUND		
	41 GENERAL ADMINISTRATION		23,700
	61 COMMUNITY SERVICES		800
		PAYROLL COSTS - 61XX	0
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	7,800
		SUPPLIES AND MATERIALS - 63XX	8,550
		OTHER OPERATING COSTS - 64XX	8,150
		DEBT SERVICES - 65XX	0
		CAPITAL OUTLAY - 66XX	0
		TOTAL FOR FUND 199 - GENERAL FUND	24,500
		TOTAL FOR ORGANIZATION 989 - GENERAL DISTRICT	24,500



ECISD 2024-2025 BUDGET BOOK

992	DEBT SERVICE	
599	DEBT SERVICE FUND	
	71 DEBT SERVICE	16,849,195
	PAYROLL COSTS - 61XX	0
	PROFESSIONAL AND CONTRACTED SERVICES - 62XX	0
	SUPPLIES AND MATERIALS - 63XX	0
	OTHER OPERATING COSTS - 64XX	0
	DEBT SERVICES - 65XX	16,849,195
	CAPITAL OUTLAY - 66XX	0
	TOTAL FOR FUND 599 - DEBT SERVICE FUND	16,849,195
	TOTAL FOR ORGANIZATION 992 - DEBT SERVICE	16,849,195

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ECISD 2024-2025 BUDGET BOOK

999	UNDISTRIBUTED ORG UNIT		
199	GENERAL FUND		
	11 INSTRUCTION		18,841,524
	12 INSTRUCTIONAL RES & MEDIA SERV		285,200
	13 CURRICULUM & STAFF DEVELOPMENT		1,675,400
	21 INSTRUCTIONAL LEADERSHIP		564,600
	23 SCHOOL LEADERSHIP		591,600
	31 GUID, COUNS & EVALUATION SERVS		517,700
	32 SOCIAL WORK SERVICES		438,000
	33 HEALTH SERVICES		277,800
	34 STUDENT TRANSPORTATION		1,107,000
	36 CO/EXTRACURRICULAR ACTIVITIES		695,800
	41 GENERAL ADMINISTRATION		220,800
	51 FACILITIES MAINT & OPERATIONS		1,079,400
	52 SECURITY & MONITORING SERVICES		1,188,800
	53 DATA PROCESSING SERVICES		376,800
	61 COMMUNITY SERVICES		119,700
	71 DEBT SERVICE		1,300,000
		PAYROLL COSTS - 61XX	25,186,124
		PROFESSIONAL AND CONTRACTED SERVICES - 62XX	314,000
		SUPPLIES AND MATERIALS - 63XX	475,000
		OTHER OPERATING COSTS - 64XX	1,455,000
		DEBT SERVICES - 65XX	1,300,000
		CAPITAL OUTLAY - 66XX	550,000
		TOTAL FOR FUND 199 - GENERAL FUND	29,280,124
		TOTAL FOR ORGANIZATION 999 - UNDISTRIBUTED ORG UNIT	29,280,124



OUR students...THE future

Ector County ISD does not discriminate on the basis of gender, age, race, nationality, religion, disability, socioeconomic standing or non-proficiency in English language skills in providing educational services for students' benefits.

El Distrito Escolar Independiente del Condado de Ector no discrimina en base de genero, edad, raza, nacionalidad, religion, incapacidad, estado socioeconomico, o falta de habilidad en las destrezas del idioma ingles, al proporcionar servicios educativos para beneficio de los estudiantes.



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Deborah Ottmers, Chief Financial Officer

SUBJECT: **DISCUSSION AND REQUEST FOR APPROVAL OF RESOLUTION TO CALCULATE THE PROPERTY TAX RATES**

DATE: June 18, 2024

The Texas Tax Code requires that a position be named for calculating the no-new-revenue tax rate and the voter-approval tax rate.

Administrative Recommendation:
Approval of Resolution designating an officer to calculate the property tax rates.

**ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
RESOLUTION OF THE ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
BOARD OF TRUSTEES**

WHEREAS, the Board of Trustees (“Board”) of the Ector County Independent School District (“District”) is authorized by Texas Education Code § 11.151 to govern and oversee the management of the public schools in the District; and

WHEREAS, the Board, as authorized by Texas Education Code § 45.002, .003(a) may levy, assess, and collect annual ad valorem taxes for the maintenance of the district’s schools. Taxes may not be levied unless authorized by a majority of the qualified voters of the district, voting at an election called for that purpose; and

WHEREAS, after the District’s assessor submits the appraisal roll to the board, an officer or employee designated by the board shall calculate the no-new-revenue tax rate and the voter-approval tax rate for the district utilizing the Comptroller tax rate calculation forms as prescribed in the Texas Tax Code § 5.07; and

WHEREAS, pursuant to Texas Tax Code § 26.04(c), (d-1), (d-3), as soon as practicable after the designated officer or employee calculates the no-new-revenue tax rate and the voter-approval tax rate of the district, the designated officer or employee shall submit the tax rate calculation forms used in calculating the rates to the county assessor-collector for each county in which all or part of the territory of the district is located.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF
THE ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT:**

RESOLVED, the Board of Trustees hereby appoints the District’s Chief Financial Officer as the designated officer responsible for calculating and reporting the no-new-revenue tax rate and the voter-approval tax rate as determined by state law.

RESOLVED, the authority granted by this resolution is effective henceforth unless the Board takes action to change the title of the appointee.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2024.

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT

By _____
President, Board of Trustees

ATTEST:

Secretary, Board of Trustees



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Deborah Ottmers, Chief Financial Officer

SUBJECT: DISCUSSION OF AND REQUEST FOR APPROVAL OF 2023-2024 BUDGET AMENDMENT # 9

DATE: June 18, 2024

Attached is a summary of the recommended Budget Amendment # 9 for the 2023-2024 budget. These are changes in estimated budgeted funds to fund items as noted on attached.

Administrative Recommendation:

Approval of 2023-2024 Budget Amendment # 9



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Deborah Ottmers, Chief Financial Officer

SUBJECT: **DISCUSSION AND REQUEST FOR APPROVAL OF RESOLUTION COMMITTING FUND BALANCE IN ACCORDANCE WITH GASB 54**

DATE: June 18, 2024

The Governmental Accounting Standards Board (GASB) released Statement 54 “Fund Balance Reporting and Governmental Fund Type Definitions” on March 11, 2009 requiring the district’s highest level of decision-making authority to approve categories for fund balance commitment or assignment. In accordance with GASB 54, we are asking the Board of Trustees to approve the resolution which lists categories for fund balance commitment.

Administrative Recommendation:
Approval of Resolution Committing Fund Balance in Accordance with GASB 54.

**ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
RESOLUTION OF THE ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
BOARD OF TRUSTEES**

WHEREAS, the Governmental Accounting Standards Board (“GASB”) adopted Statement 54 (“GASB 54”), a standard for governmental fund balance reporting and governmental fund type definitions that became effective in governmental fiscal years starting after June 15, 2010.

WHEREAS, Ector County Independent School District (“ECISD”) has implemented GASB 54 requirements, and to apply such requirements to its financial statements.

NOW THEREFORE BE IT RESOLVED that ECISD Board of Trustees assigns, commits, or restricts portions of its June 30, 2024 Fund Balance for expenditures as follows:

- Major and Minor Maintenance and Renovation
- Roofing, HVAC, irrigation, and parking lot improvement
- Energy and Safety Management upgrades
- Technology Infrastructure, Equipment, and Computers
- School Buses and other Vehicles
- Career Technology items
- Books, Furniture, Other Equipment
- Portable Building movement
- Inventories and prepaid items
- Campus Discretionary, Student Activity, and Scholarship Funds
- Special Revenue Funds
- Debt Service Fund
- Capital Project Fund
- Internal Service Funds: Employee Housing, Workers Compensation, Medical Trust

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2024.

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT

By _____
President, Board of Trustees

ATTEST:

Secretary, Board of Trustees



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Deborah Ottmers, Chief Financial Officer

**SUBJECT: DISCUSSION OF AND REQUEST FOR APPROVAL OF PURCHASES
OVER \$50,000**

DATE: June 18, 2024

As Required by Board Policy CH (Local), following is a list to consider and take possible action to authorize, negotiate, and enter into term agreements with recommended vendors to be awarded by purchase orders once approved.

Administrative Recommendation:
Approval of Purchases over \$50,000

Dr. Jieun Pando

Ector County ISD Director of School Nutrition
(432) 456-9741
1120 W. 10th St.
Odessa, TX 79763
jieun.Pando@ectorcountyisd.org



RFP#Bid 24-22SN (K12 CUSTOM & STANDARD SERVING LINE SYSTEMS)

- **Purpose:** The School Nutrition Department is planning to remove old serving lines and install new serving lines at Crockett, Wilson & Young, and Nimitz Middle Schools. The RFP will be for SY24-25.
- **Background Info:** The current serving lines at Crockett, Wilson & Young, and Nimitz Middle Schools are designed for outdated menu items. The new serving lines are designed specifically to accommodate current menu items and increase efficiency in serving students.
- **Cost:** \$1,207,968.65
- **Funding Source:** Federal Funds 240
- **Recommended Supplier/Service Provider:**
Ace Mart Restaurant Supply Co.

Board Approval

Date





2	<p>Serving Counter for Crockett, W&Y, Nimitz</p> <p>Specifications come from CounterCraft Model No. SCOL5636 or alternate with equal specifications.</p> <p>Any manufacturer, brand and model numbers used in these specifications are for the purpose of describing and establishing minimum requirements or level of quality, standard of performance, and design required, and in no way intended to prohibit the bidding of other manufacturer's items of equal specification.</p> <p>Serving line for all the sites listed must be identical, and price must not vary per unit of measure.</p>
---	--

Supplier	QTY	UOM	Estimated	Price	Extended	Supplier Notes	Manufacturer	Manufacturer #
Ace Mart Restaurant Supply Co				\$1,207,968.65	\$1,207,968.65			
Mission Restaurant Supply				\$1,235,736.00	\$1,235,736.00			

2		Serving Counter for Crockett, W&Y, Nimitz								
Supplier	Criteria 1	Criteria 2	Criteria 3	Criteria 4	Criteria 5	Criteria 6	Criteria 7	Criteria 8	Total	Additional Information
Ace Mart Restaurant Supply Co	60	5	5	5	5	5	5	10	100	
Mission Restaurant Supply	55	5	5	5	5	5	5	10	95	



Mark Gabrylczyk
 Executive Director of Special Services
 Ector County ISD
 432-456-8719
 Fax: 432-456-8718



RFP #24-29 Supplemental Services for ECISD Special Services

Purpose:

The selected companies and individuals will be responsible for providing contracted services for the ECISD Special Education Department. The selected individuals and companies will be responsible for providing services in the areas of assessing students, conducting ARD Meetings, counseling, providing speech therapy in person and virtually, maintaining student confidentiality, writing goals, hearing evaluations, audiology services, and provide ongoing communication to the Executive Director of Special Services and/or designee and progress reporting. This may also include communicating with parents, families/guardians of student if deemed necessary by the Special Services Department.

Background information: ECISD developed an RFP process to secure services for the listed companies, as needed, based on the districts needs. The individuals and companies responded to the RFP process and are being recommended to provide services for the ECISD Special Education Department. An Award does not guarantee a purchase of any goods or service.

Cost: \$1,000,000

Funding Source: **224** - Federal Part B Special Education Budget
 199 - District General Fund
 435 - Deaf and Hard of Hearing Budget

Recommended Supplier/Service Provider:

512 Terps	A3 Psychological Assessment LLC	Ace Therapy Services LLC	Amy Hill, Ed. Diagnostician
Anderson Diagnostics	Audio Acoustics Hearing Center	Babbling Bears LLC	Beyond Words Speech Therapy LLC
Bustin' Barrels	Carol Ann Brodersen	Costa Therapy Institute, LLC	Danny Lopez
Dianna Hulett	Dori Butts Consulting Services, LLC	DOTCOM Therapy INC	Elite Learning Solutions
E-Therapy Intermediate, INC	Farrah Walton	Gillem Staffing	Harmony Speech Services, PLLC
Hope Psychoeducational Assessments and Consulting	Jacqueline H Light	James Educational Assessment Services	Jayne B. Company dba Marker Learning
Jennifer Douglas	Kaylee Couch, Independent Contractor	Michele Marjason, EdD	National Recruiting Consultants
NOVA Therapy Services, PLLC	Parallel Learning Behavioral Health P.C.	Presence Learning, INC	Seagull Speech & Language Services, LLC
Sherry Goodwin Hill	Soliant Health	Speech Specialists of San Antonio, P.C.	Sunbelt Staffing, LLC
Tandem Behavioral Health, PLLC	The Good Seed Therapies, LLC	WestTX School Based Psychological Services	

Board Approval

Date

educate

connect

inspire⁵⁵⁷

succeed

dream

**ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
ODESSA, TEXAS**

RFP # 24-29 Supplemental Services for ECISD Special Services 2024-2025

SCORE SHEET

Closed: June 07, 2024 1:00PM

Consolidated

Evaluators	Suppliers									
	512 Terps	A3 Psychoeducational Assessment LLC	Ace Therapy Services LLC	Amy Hill, Ed. Diagnostician	Anderson Diagnostics	Audio Acoustics Hearing Center	Babbling Bears LLC	Beyond Words Speech Therapy PLLC	Bustlin' Barrels	Carol Ann Brodersen
Evaluator 1	95	95	75	70	80	95	70	70	70	95
Evaluator 2	87	95	73	73	73	94	70	89	75	75
Evaluator 3	77	93	80	70	70	90	60	90	70	65
Evaluator 4	80	83	75	75	75	90	70	90	75	72
Total	339	366	303	288	298	369	270	339	290	307
Average	85	92	76	72	75	92	68	85	73	77

Consolidated

Evaluators	Suppliers									
	Costa Therapy Institute, LLC	Danny Lopez	Dianna Hulett	Dori Butts Consulting Services, LLC (Dori Butts)	DOTCOM THERAPY, INC.	Elite Learning Solutions	E-Therapy Intermediate, Inc.	Farrah Walton	Gillem Staffing	Harmony Speech Services, PLLC
Evaluator 1	80	95	95	95	90	70	90	95	75	70
Evaluator 2	93	90	89	89	83	73	74	83	70	93
Evaluator 3	93	94	95	74	65	72	70	86	70	93
Evaluator 4	90	75	91	72	70	75	72	83	75	89
Total	356	354	370	330	308	290	306	347	290	345
Average	89	89	93	83	77	73	77	87	73	86

Consolidated

Evaluators	Suppliers									
	Hope Psychoeducational Assessments and Consulting	Jacqueline H Light	James Educational Assessment Services	Jayne B. Company dba Marker Learning	Jennifer Douglas	Kaylee Couch, Independent Contractor	Michele Marjason EdD	National Recruiting Consultants	NOVA Therapy Services, PLLC	Parallel Learning Behavioral Health P.C.
Evaluator 1	70	95	65	95	95	95	95	75	75	70
Evaluator 2	83	89	81	89	89	82	87	70	75	73
Evaluator 3	86	95	70	84	94	70	87	70	70	70
Evaluator 4	70	70	70	73	88	70	83	72	70	70
Total	309	349	286	341	366	317	352	287	290	283
Average	77	87	72	85	92	79	88	72	73	71

**ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
ODESSA, TEXAS**

RFP # 24-29 Supplemental Services for ECISD Special Services 2024-2025

SCORE SHEET

Closed: June 07, 2024 1:00PM

Consolidated

Evaluators	Suppliers									
	Presence Learning, Inc.	Seagull Speech & Language Services LLC	Sherry Goodwin Hill	Soliant Health	Speech Specialists of San Antonio, P.C.	Sunbelt Staffing LLC	Tandem Behavioral Health, PLLC	Tess Donner	The Good Seed Therapies, LLC	WestTX School Based Psychological Services
Evaluator 1	80	80	85	70	70	70	95	NS	70	50
Evaluator 2	88	81	87	87	77	75	94	NS	75	75
Evaluator 3	80	80	92	70	74	72	96	NS	75	85
Evaluator 4	73	75	70	72	70	70	90	NS	70	70
Total	321	316	334	299	291	287	375	NS	290	280
Average	80	79	84	75	73	72	94	NS	73	70

NS - Not Scored

ECISD
Request for purchases over \$50,000
June 2024

Item	Vendor(s)	Estimated Contract Price	Funding	Requestor/Department	Reference	Service/Product	Service/Product Summary	Contract Term
1	Calpine Corporation	\$ 4,100,000	General Funds 199	Anthony Sorola District Operations	Texas GLO Contract	Electrical Utility Services	Calpine Corporation electrical utility services for ECISD buildings.	FY 2024-2025
2	City of Odessa	\$ 3,000,000	General Funds 199	Deborah Ottmers Finance	Sole Source TEC 44.031 j-k	Water, Sewage, & Other Services	The City of Odessa provides water and sewage services, ambulance services for the Police Department, teen court and truancy court services for the Community Outreach Center for ECISD buildings within city limits.	FY 2024-2025
3	Ector County Appraisal District	\$ 3,000,000	General Funds 199	Deborah Ottmers Finance	Sole Source Texas Tax Code Title I Subtitle B Chapter 6 Subchapter A	Property Tax Appraisal & Collection	Ector County Appraisal District provides tax appraisal & collection services for the District.	FY 2024-2025
4	eLuma, LLC	\$ 1,500,000	General Funds 199 Federal Funds 224	Mark Gabrylczyk Special Services	Renewal ECISD Awarded RFQ #22-31	Virtual Speech Therapy	The company will be responsible for assessing students, monitoring student progress, conducting ARD meetings, providing speech therapy virtually, maintaining student confidentiality, writing goals for speech, provide ongoing communication to Executive Director of Special Services.	FY 2024-2025 Option to renew 1 more 1 year intervals
5	Bluefin, LLC PBK	\$ 1,500,000	General Funds 199 Insurance Recovery Fund 475	Anthony Sorola District Operations	Renewal ECISD Awarded RFQ 24-10	Roofing Consultant Services	Assistance with Design/Engineering Services including but not limited to roof replacement and roof repair projects and miscellaneous related work, including assessing current school facilities, prioritizing facility needs, assisting the District with selection of a delivery method as set out by current Texas law, preparing designs and specifications, assisting with advertising for bids/proposals, assisting with evaluating the bids/proposals, producing construction documents, comprehensive oversight of the project, authorizing payments to contractor(s), etc..	FY 2024-2025

560

ECISD
Request for purchases over \$50,000
June 2024

Item	Vendor(s)	Estimated Contract Price	Funding	Requestor/Department	Reference	Service/Product	Service/Product Summary	Contract Term
6	FEV Tutoring	\$ 1,327,000	Title I Funds 211 General Funds 199	Lilia Nanez Curriculum & Instruction	TEA TX TUTOR CORPS	Student Tutoring Services	FEV provides district-level tutoring for individual students who qualify for HB 4545. The work includes the following: -Initial student and campus administration set up for rostering, family communication, and staff training. -Continuous support through communication for program design for campus and district teams -Launch support for each campus for individual virtual high-impact tutoring -Assessment Data Integration with NWEA MAP -Dashboard and data reporting.	FY 2024-2025
7	Ace Mart Restaurant Supply Co.	\$ 1,207,969	Federal Funds 240	Jieun Pando School Nutrition	ECISD Awarded RFP 24-22SN	Serving Line System	The School Nutrition Department is planning to remove old serving lines and install new serving lines at Crockett, Wilson & Young, and Nimitz Middle Schools. The new serving lines are designed specifically to accommodate current menu items and increase efficiency in serving students.	FY 2024-2025 561
8	Binford Supply, Anderson Tile, Serwin Williams Paint, Sherwin Williams Flooring, Eagle Rubber, Albright & Associates, Anchor Bolt & Supply, Brakes & Wheels Inc., Brazos Door & Hardware, Custom Wholesale(Johnstone Supply), United Refrigeration, Lawnmower Sales and Service, Gardendale Water, Happy Gringo (ASAP Services), Industrial Ignition, J&J Steel Company, Odessa Winlectric, Jimmy Do Gaylor(Permian Glass), Sim's Plastics, Williams Paving & Excavation, Y'all Haul Trailers, Best Choice Coffie Service, Family Motor Sports, Fabco, Cashway, Brazos Forrest, Basin Block, Jones Enterprizes, REW Materials, Alliance Recovery LLC, American Sales Soap/Chem, American Sales Washbay machine, Ameripride, ARA Odessa, BG Products, Bill Williams Tire, B-Line, Buck Wheel, Cummins Souther Planes, Goodson, HydroTex Diesel Fuel Additive, HydroTex Oil/Lubricants, Industrial Communications, K.B Safe & Lock, Lawson Products, Mansfield Oil Company, McCreless, MultiCare Plus, NAPA, Neal Pool, Oreilly, Overhead Door, Penske (F.L), Roberts Truck, Ryder Transportation, Sewell Ford, Steward Stevenson, Thermo Fluids, Watson Truck, and Way Side Radiator.	\$ 1,000,000	General Funds 199	Anthony Sorola District Operations	Renewal ECISD Awarded 19-21	Maintenance, Transportation Supplies, and Equipment	Maintenance, Transportation Supplies and Equipment to purchase replacement parts and equipment for operation of the Maintenance Department	Good until 12/31/2024

ECISD
Request for purchases over \$50,000
June 2024

Item	Vendor(s)	Estimated Contract Price	Funding	Requestor/Department	Reference	Service/Product	Service/Product Summary	Contract Term
15	Helm Plumbing Service Rick's Backflow & Plumbing	\$ 455,000	General Funds 199	Anthony Sorola District Operations	ECISD Awarded 23-39	Supplemental Plumbing Services	Building plumbing systems, components and various projects as needed throughout the district that the Facilities Department cannot meet.	FY 2024-2025
16	Atkins, Hollman, Jones & Peacock, LLP	\$ 375,000	General Funds 199	Dr. Scott Muri Superintendent	No Bid Professional Service Section 2254.024 Government Code	Attorney Legal Fees	Estimated fees for attorney legal services.	FY 2024-2025
17	Nunez Fence	\$ 250,000	General Funds 199 Safety Funds 429	Anthony Sorola District Operations	ECISD Awarded 24-01	Supplemental Fencing Services	Fence replacement, repairs, and various State Mandated Safety projects as needed throughout the district that the Facilities Department cannot meet.	FY 2024-2025
18	DomTech Electrical and Controls Copperhead Electrical Services LLC	\$ 250,000	General Funds 199	Anthony Sorola District Operations	ECISD Awarded 23-35	Supplemental Electrical Services	Electrical installations, repairs and other various projects as needed throughout the district that the Facilities Department cannot meet.	FY 2024-2025
19	Focus	\$ 230,000	General Funds 199	Dr. Kellie Wilks Information Technology	ECISD AWARDED RFP 22-15	Focus Student Information System	Student Information Systems & Implementation.	FY 2024-2025
20	Kelly Evans Construction LLC	\$ 225,000	General Funds 199	Anthony Sorola District Operations	ECISD Awarded 23-34	Supplemental Concrete Services	Construction of sidewalks, ramps, and other various projects as needed throughout the district that the Facilities Department cannot meet.	FY 2024-2025
21	Lone Star Signs	\$ 150,000	General Fund 199	Anthony Sorola District Operations	Renewal ECISD Awarded RFP #23-10SI	Preventive Maintenance / Installation	Electronic Message Marquee Board	FY 2024-2025
22	Advancement Via Individual Determination (AVID)	\$ 140,649	General Funds 199	Amy Anderson AVID	Sole Source TEC 44.031 j-k	AVID Membership	The Advancement Via Individual Determination (AVID) membership fee pays for the use of all AVID products and services for all AVID campuses. The fee covers curriculum, resources, professional learning, district support, and access to networks of learning opportunities. AVID is a sole source vendor for this program.	FY 2024-2025
23	PowerSchools	\$ 114,000	General Funds 199	Dr. Kellie Wilks Information Technology	Renewal ECISD Awarded RFP #20-06	Schoology	Learning Management System for students in grades 3 - 12.	FY 2024-2025
24	Whitley Penn	\$ 104,000	General Funds 199	Albessa Chavez Finance	No Bid Professional Service Section 2254.003 Government Code	Auditor Services	Accounting services including auditing and report preparations.	FY 2024-2025

ECISD
Request for purchases over \$50,000
June 2024

Item	Vendor(s)	Estimated Contract Price	Funding	Requestor/Department	Reference	Service/Product	Service/Product Summary	Contract Term
25	Multi-Health Systems	\$ 96,000	General Funds 199	Jessica Gore Assessment and Accountability	Sole Source TEC 44.031 j-k	Naglieri	ECISD uses the Naglieri General Abilities Test to screen Kindergarten, Third, and Fifth-grade students for gifted and talented services as well as to test those students who have applied for gifted and talented testing.	FY 2024-2025
26	Corral Environmental Consulting LLC	\$ 85,000	General Funds 199 Bond Construction Funds 6xx Capital Projects Funds 6xx	Anthony Sorola District Operations	ECISD Awarded 24-05	Asbestos Remediation Services	Annual, inspections, and reinspections. Management plan and compliance with AHERA. Post signs, annual training, abatement projects, air Monitoring, and other asbestos related services.	FY 2024-2025
27	Public Impact	\$ 75,972	Education Foundation 482	Jamie Miller Talent Development	Renewal ECISD Awarded RFP 23-33	Coaching support	Opportunity Culture provides invaluable expertise, data-driven insights, and tailored support.	FY 2024-2025
28	Ector County Utility District	\$ 75,000	General Funds 199	Anthony Sorola District Operations	Sole Source TEC 44.031 j-k	Water, Sewage, & Other Services	Ector County Utility District provides water and sewage services for Cavazos, Murry Fly, and the Ag Farm.	FY 2024-2025
29	College Board	\$ 75,000	General Funds 199	Jessica Gore Assessment and Accountability	Sole Source TEC 44.031 j-k	TSI Accuplacer	The TSI Accuplacer evaluates students' proficiency in key areas such as reading, writing, and mathematics. The test is designed to determine whether students possess the necessary skills to succeed in college-level courses or if they require additional support, such as remedial or developmental courses, to strengthen their skills before pursuing college credit coursework.	564 FY 2024-2025
30	Big Bend Telecom, LTD	\$ 55,800	General Funds 199	Dr. Kellie Wilks Information Technology	Renewal ECISD AWARDED RFP 23-31	Disaster Recovery	To ensure that district operations are stored safely and securely and able to continue in case of an emergency situation at the physical technology building.	FY 2024-2025
31	Extreme Exteriors Garden Center	\$ 55,000	General Funds 199	Anthony Sorola District Operations	ECISD Awarded 23-37	Supplemental Landscape Services	Landscaping Services to assist with District Grounds and other various projects as needed throughout the district that the Facilities Department cannot meet.	FY 2024-2025
32	Permian Septic Inc (Affordablr Vacuum Service)	\$ 50,000	General Funds 199	Anthony Sorola District Operations	Renewal ECISD Awarded 22-37	Supplemental Vaccum Services	Vacuum Services to assist the Facilities Department with the yearly cleaning and disposal of waste collected from the cleaning of Kitchen Grease Traps, Sand Pits and West Side Sewer Line Lift Pump Stations that the district Facilities Department cannot meet.	FY 2024-2025
33	WEIDNER & PHILLIPS LTD BY F & B OPERATORS (Overhead Door of Permian Basin)	\$ 50,000	General Funds 199	Anthony Sorola District Operations	ECISD Awarded 24-02	Supplemental Overhead Door Services	Overhead Doors, Fire Safety Gates, door components and various projects as needed throughout the district that the Facilities Department cannot meet.	FY 2024-2025



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Scott Muri, Superintendent of Schools

SUBJECT: DISCUSS AND CONSIDER BOARD APPROVAL OF A DELEGATE AND ALTERNATE TO THE 2024 TEXAS ASSOCIATION OF SCHOOL BOARDS (TASB) DELEGATE ASSEMBLY

DATE: June 18, 2024

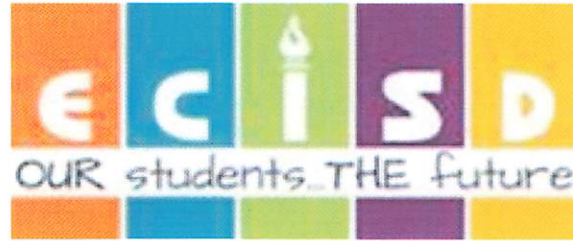
A part of the Board's professional responsibility is participation in the annual Delegate Assembly of the Texas Association of School Boards. Attending Delegate Assembly gives the Board the opportunity to participate in the democratic process that governs TASB. Delegates will elect TASB officers and directors, vote on TASB's Advocacy Agenda, have the opportunity to interact with other board members in our region, and earn continuing education credit.

The 2024 Delegate Assembly will be held on Saturday, September 28, in conjunction with the TASA | TASB Convention in San Antonio, Texas.

TASB is requesting the Board to consider sending experienced Board members who are well-informed on a wide range of issues affecting public education today. The Board is asked to elect a delegate and an alternate.

Administrative Recommendation:

The Board of Trustees to elect a delegate and alternate to the Delegate Assembly of the Texas Association of School Boards.



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Keeley Boyer, Chief of Schools

SUBJECT: DISCUSSION OF AND REQUEST FOR APPROVAL OF THE 2024-2025 STUDENT CODE OF CONDUCT AND REVISIONS TO THE STUDENT HANDBOOK FEES

DATE: June 18, 2024

The Board of Trustees is asked to approve the ECISD 2024-2025 Student Code of Conduct and revisions to the Student Handbook fees. The Student Code of Conduct is based on the TASB Model Student Code of Conduct.

Administrative Recommendation:

Approval of the 2024-2025 Student Code of Conduct and revisions to the Student Handbook fees.

Ector County ISD Fees and Student Fines 2024-2025					
Class	Description	Grades 6 - 8		Grades 9 - 12	
		Per Year	Per Semester	Per Year	Per Semester
Cosmetology I	Cosmetology Kit Purchase			\$1150	
Cosmetology II	Cosmetology Kit Purchase			\$684	\$731
Auto Tech	Uniform Shirt			\$35	
Culinary Arts	Uniform			\$15	
LVN I Fall	Uniform/Equipment/Name Tag			\$524	
LVN I Spring	Skills Equipment/ ATI Subscription			\$490	
LVN I Summer	Tuition			\$165	
LVN I Summer	Clinical Liability Insurance			\$32	
LVN II Fall	ATI Subscription x 2 Courses			\$720	
LVN II Fall	Pinning Cost			\$110	
LVN II Fall	Clinical Liability Insurance			\$12	
LVN II Spring	Jurisprudence & BON Application			\$125	
LVN II Spring	Clinical Liability Insurance			\$12	
LVN II Summer	Post Graduate Summer Tuition			\$275	
LVN II Summer	Post Graduate Clinical Liability			\$20	
LVN II Summer	Post Graduate NCLEX/Pearson Fees			\$200	
Practicum Health Science Courses	Lab Jacket			\$35	
Fashion Design	Sewing Kits			\$30	
Welding @ OC	Safety and Equipment/Uniform/Supplies			\$350	
Fire Academy	Uniform			\$150	
EMT	Partial Tuition (1 semester)				\$150
EMT	Uniform			\$150	
Art MS	Supplies	\$20			
Art 1	Supplies	\$25		\$25	
Art 2	Supplies			\$35	
Art 3	Supplies			\$35	
Art 4	Supplies			\$35	
AP Art 3	Supplies			\$35	
AP Studio Art	Supplies			\$35	

Summer Strength and Conditioning	\$50		\$50
Description		Fine	
Liquid Damage of Textbooks or Library book		Replacement Cost	
Vulgar Defacement of Textbook or Library book		Replacement Cost	
Lost Textbook or Library book		Replacement Cost	
Technology Use Fee		\$20	
Student Technology Device Repair/Lost/Damaged/Unrepairable		Replacement Cost	
P.E. Replacement Lock		\$6.00	
I.D. Cards/Temporary		\$2.00	
I.D. Cards/ Replacement		\$5.00	
Parking Permits		\$35.00	
AP Exam		\$20	
AP Exam Absentee or Cancellation		\$40	
SAT		\$54.50 \$60	
Lost or Damaged Uniform for Fine Arts Class		Replacement or Repair Costs	
Lost or Damaged Instrument for Fine Arts Class		Replacement or Repair Costs	

Italicized blue font- new fee

~~Strikethrough~~- removed

Red font- updated fee



Student Code of Conduct

2024-2025 School Year

Dr. Scott Muri, Superintendent of Schools
802 N. Sam Houston
Odessa, Texas 79761
(432) 456-0000
www.ectorcounttyisd.org

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Student Code of Conduct

Accessibility

If you have difficulty accessing the information in this document because of disability, please contact the appropriate campus principal.

Purpose

The Student Code of Conduct (“Code”) is the district’s response to the requirements of Chapter 37 of the Texas Education Code.

The Code provides methods and options for managing students in the classroom and on school grounds, disciplining students, and preventing and intervening in student discipline problems.

The law requires the district to define misconduct that may—or must—result in a range of specific disciplinary consequences including removal from a regular classroom or campus, out-of-school suspension, placement in a disciplinary alternative education program (DAEP), placement in a juvenile justice alternative education program (JJAEP), or expulsion from school.

The Student Code of Conduct has been adopted by the Ector County Independent School District (ECISD) Board of Trustees and was developed with the advice of the district-level committee. This Code provides information to parents and students regarding standards of conduct, consequences of misconduct, and procedures for administering discipline. It remains in effect during summer school and at all school-related events and activities outside the school year until an updated version adopted by the board becomes effective for the next school year.

In accordance with state law, the Code shall be posted at each school campus or shall be available for review at the office of the campus principal. Additionally, the Code shall be available at the office of the campus behavior coordinator and posted on the district’s website at www.ectorcountyyisd.org. Parents shall be notified of any conduct violation that may result in a student being suspended, placed in a DAEP or JJAEP, expelled, or taken into custody by a law enforcement under Chapter 37 of the Education Code.

Because the Student Code of Conduct is adopted by the district’s board of trustees, it has the force of policy; therefore, in case of conflict between the Code and the Student Handbook, the Code shall prevail.

Please note: The discipline of students with disabilities who are eligible for services under federal law (Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973) is subject to the provisions of those laws.

School District Authority and Jurisdiction

School rules and the authority of the district to administer discipline apply whenever the interest of the district is involved, on or off school grounds, in conjunction with or independent of classes and school-sponsored activities.

The district has disciplinary authority over a student:

- During the regular school day and while the student is going to and from school or a school-sponsored or school-related activity on district transportation;
- During lunch periods in which a student is allowed to leave campus;
- While the student is in attendance at any school-related activity, regardless of time or location;
- For any school-related misconduct, regardless of time or location;
- When retaliation against a school employee, board member, or volunteer occurs or is threatened, regardless of time or location;
- When a student engages in cyberbullying, as provided by Education Code 37.0832;
- When criminal mischief is committed on or off school property or at a school-related event;
- For certain offenses committed within 300 feet of school property as measured from any point on the school's real property boundaryline;
- For certain offenses committed while on school property or while attending a school-sponsored or school-related activity of another district in Texas;
- When the student commits a felony, as provided by Education Code 37.006 or 37.0081; and
- When the student is required to register as a sex offender.

Campus Behavior Coordinator

As required by law, a person at each campus must be designated to serve as the campus behavior coordinator. The designated person may be the principal of the campus or any other campus administrator selected by the principal. The campus behavior coordinator is primarily responsible for maintaining student discipline. The district shall post on its website and in the Student Handbook, for each campus, the email address and telephone number of the person serving as campus behavior coordinator. Contact information may be found at the campus webpage. Parents may contact the campus for the name of a current person serving as a campus behavior coordinator.

Threat Assessment and Safe and Supportive School Team

The campus behavior coordinator or other appropriate administrator will work closely with the campus threat assessment safe and supportive school team to implement the district's threat assessment policy and procedures, as required by law, and shall take appropriate disciplinary action in accordance with the Code of Conduct.

Searches

District officials may conduct searches of students, their belongings, and their vehicles in accordance with state and federal law and district policy. Searches of students shall be conducted in a reasonable and nondiscriminatory manner. Refer to the district's policies at FNF(LEGAL) and FNF(LOCAL) for more information regarding investigations and searches.

The district has the right to search a vehicle driven to school by a student and parked on school property whenever there is reasonable suspicion to believe it contains articles or materials prohibited by the district.

Desks, lockers, district-provided technology, and similar items are the property of the district and are provided for student use as a matter of convenience. District property is subject to search or inspection at any time without notice.

Reporting Crimes

The principal or campus behavior coordinator and other school administrators as appropriate shall report crimes as required by law and shall call local law enforcement when an administrator suspects that a crime has been committed on campus.

Security Personnel

To ensure sufficient security and protection of students, staff, and property, the board employs police officers, and/or security personnel. In accordance with law, the board has coordinated with the campus behavior coordinator and other district employees to ensure appropriate law enforcement duties are assigned to security staff. The law enforcement duties of district peace officers are listed in policy CKE(LOCAL). The law enforcement duties of school resource officers are as outlined in TEC 37.081, as well as the Texas Code of Criminal Procedures.

“Parent” Defined

Throughout the Code of Conduct and related discipline policies, the term “parent” includes a parent, legal guardian, or other person having lawful control of the child.

Participating in Graduation Activities

The district has the right to limit a student's participation in graduation activities for violating the district's Code.

Participation might include a speaking role, as established by district policy and procedures.

Students eligible to give the opening and closing remarks at graduation shall be

notified by the campus principal. Notwithstanding any other eligibility requirements, in order to be considered as an eligible student to give the opening or closing remarks, a student shall not have engaged in any misconduct resulting in an out-of-school suspension, removal to a DAEP, or expulsion during the semester immediately preceding graduation.

The valedictorian and salutatorian may also have speaking roles at graduation. No student shall be eligible to have such a speaking role if he or she engaged in any misconduct in resulting in an out-of-school suspension, removal to a DAEP, or expulsion during the semester immediately preceding graduation.

See **DAEP—Restrictions During Placement** on page 22, for information regarding student assigned to DAEP at the time of graduation.

Unauthorized Persons

In accordance with Education Code 37.105, a school administrator, school resource officer (SRO), or district police officer shall have the authority to refuse entry or eject a person from district property if the person refuses to leave peaceably on request and:

- The person poses a substantial risk of harm to any person; or
- The person behaves in a manner that is inappropriate for a school setting, and the person persists in the behavior after being given a verbal warning that the behavior is inappropriate and may result in refusal of entry or ejection.

Appeals regarding refusal of entry or ejection from district property may be filed in accordance with policies FNG(LOCAL) or GF(LOCAL), as appropriate. However, the timelines for the district's grievance procedures shall be adjusted as necessary to permit the person to address the board in person within 90 days, unless the complaint is resolved before a board hearing.

Standards for Student Conduct

Each student is expected to:

- Demonstrate courtesy, even when others do not.
- Behave in a responsible manner, always exercising self-discipline.
- Attend all classes, regularly and on time.
- Prepare for each class; take appropriate materials and assignments to class.
- Meet district and campus standards of grooming and dress.
- Obey all campus and classroom rules.
- Respect the rights and privileges of students, teachers, and other district staff and volunteers.
- Respect the property of others, including district property and facilities.

- Cooperate with and assist the school staff in maintaining safety, order, and discipline.
- Adhere to the requirements of the Student Code of Conduct.

General Conduct Violations

The categories of conduct below are prohibited at school, in vehicles owned or operated by the district, and at all school-related activities, but the list does not include the most severe offenses. In the subsequent sections on Out-of-School Suspension, DAEP Placement, Placement and/or Expulsion for Certain Offenses, and Expulsion, certain offenses that require or permit specific consequences are listed. Any offense, however, may be severe enough to result in Removal from the Regular Educational Setting as detailed in that section.

Disregard for Authority

Students shall not:

- Fail to comply with directives given by school personnel (insubordination).
- Leave school grounds or school-sponsored events without permission.
- Disobey rules for conduct in district vehicles.
- Refuse to accept discipline management techniques assigned by a teacher or principal.

Mistreatment of Others

Students shall not:

- Use profanity or vulgar language or make obscene gestures.
- Fight or scuffle. (For assault, see **DAEP Placement and Expulsion**.)
- Threaten a district student, employee, or volunteer, including off school property, if the conduct causes a substantial disruption to the educational environment.
- Engage in bullying, cyberbullying, harassment, or making hit lists. (See glossary for all four terms.)
- Release or threaten to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.
- Engage in conduct that constitutes sexual or gender-based harassment or sexual abuse, whether by word, gesture, or any other conduct, directed toward another person, including a district student, employee, board member, or volunteer.
- Engage in conduct that constitutes dating violence. (See glossary.)
- Engage in inappropriate or indecent exposure of private body parts.
- Participate in hazing. (See glossary.)
- Cause an individual to act through the use of or threat of force (coercion).
- Commit extortion or blackmail (obtaining money or an object of value from an unwilling person).

- Engage in inappropriate verbal, physical, or sexual conduct directed toward another person, including a district student, employee, or volunteer.
- Record the voice or image of another without the prior consent of the individual being recorded or in any way that disrupts the educational environment or invades the privacy of others.

Property Offenses

Students shall not:

- Damage or vandalize property owned by others. (For felony criminal mischief, see **DAEP Placement and Expulsion**.)
- Deface or damage school property—including textbooks, technology and electronic resources, lockers, furniture, and other equipment—with graffiti or by other means.
- Steal from students, staff, or the school.
- Commit or assist in a robbery or theft, even if it does not constitute a felony according to the Penal Code. (For felony robbery, aggravated robbery, and theft, see **DAEP Placement and Expulsion**.)

Possession of Prohibited Items

Students shall not possess or use:

- Fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device;
- A razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person;
- A “look-alike” weapon that is intended to be used as a weapon or could reasonably be perceived as a weapon;
- An air gun or BB gun;
- Ammunition;
- A location-restricted knife;
- A club;
- A firearm;
- A firearm silencer or suppressor
- A stun gun;
- Knuckles
- A pocketknife or any other small knife;
- Mace or pepper spray;
- Nicotine products, including nicotine pouches;
- Pornographic material;
- Tobacco products; cigarettes; e-cigarettes; and any component, part, or accessory for an e-cigarette device;
- Matches or a lighter;
- A laser pointer for other than an approved use; or
- Any articles not generally considered to be weapons, including school supplies, when the principal or designee determines that a danger exists.

Note: For weapons and firearms, see ⁵⁷⁸**DAEP Placement and Expulsion**. In many

circumstances, possession of these items is punishable by mandatory expulsion

under federal or state law.

Possession of Telecommunications or Other Electronic Devices

Students shall not:

- Use a telecommunications device, including a cellular telephone, or other electronic device in violation of district or campus rules.

Illegal, Prescription, and Over-the-Counter Drugs

Students shall not:

- Possess, use, give, or sell alcohol or an illegal drug. (Also see **DAEP Placement and Expulsion** for mandatory and permissive consequences under state law.)
- Possess or sell seeds or pieces of marijuana in less than a usable amount.
- Possess, use, give, or sell paraphernalia related to any prohibited substance. (See glossary for “paraphernalia.”)
- Possess, use, abuse, or sell look-alike drugs or attempt to pass items off as drugs or contraband.
- Abuse the student’s own prescription drug, give a prescription drug to another student, or possess or be under the influence of another person’s prescription drug on school property or at a school-related event. (See glossary for “abuse.”)
- Abuse over-the-counter drugs. (See glossary for “abuse.”).
- Be under the influence of prescription or over-the-counter drugs that cause impairment of the physical or mental faculties. (See glossary for “under the influence.”)
- Have or take prescription drugs or over-the-counter drugs at school other than as provided by district policy.

Misuse of Technology Resources and the Internet

Students shall not:

- Violate policies, rules, or agreements signed by the student or the student’s parent regarding the use of technology resources.
- Attempt to access or circumvent passwords or other security-related information of the district, students, or employees or upload or create computer viruses, including off school property if the conduct causes a substantial disruption to the educational environment.
- Attempt to alter, destroy, or disable district technology resources including, but not limited to, computers and related equipment, district data, the data of others, or other networks connected to the district’s system, including off school property if the conduct causes a substantial disruption to the educational environment.
- Use the Internet or other electronic communications to threaten or harass district students, employees, board members, or volunteers, including off

school property if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.

- Send, post, deliver, or possess electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal, including cyberbullying and "sexting," either on or off school property, if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.
- Use the Internet or other electronic communication to engage in or encourage illegal behavior or threaten school safety, including off school property if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.

Safety Transgressions

Students shall not:

- Possess published or electronic material that is designed to promote or encourage illegal behavior or that could threaten school safety.
- Engage in verbal (oral or written) exchanges that threaten the safety of another student, a school employee, or school property.
- Make false accusations or perpetrate hoaxes regarding school safety.
- Engage in any conduct that school officials might reasonably believe will substantially disrupt the school program or incite violence.
- Throw objects that can cause bodily injury or property damage.
- Discharge a fire extinguisher without valid cause.

Miscellaneous Offenses

Students shall not:

- Violate dress and grooming standards as communicated in the Student Handbook.
- Cheat or copy the work of another.
- Gamble.
- Falsify records, passes, or other school-related documents.
- Engage in actions or demonstrations that substantially disrupt or materially interfere with school activities.
- Repeatedly violate other communicated campus or classroom standards of conduct.

The district may impose campus or classroom rules in addition to those found in the Code. These rules may be posted in classrooms or given to the student and may or may not constitute violations of the Code.

Discipline Management Techniques

Discipline shall be designed to improve conduct and to encourage students to adhere to their responsibilities as members of the school community. Disciplinary action shall draw on the professional judgment of teachers and administrators and on a range of discipline management techniques, including restorative practices. Discipline shall be based on the seriousness of the offense, the student's age and grade level, the frequency of misbehavior, the effect of the misconduct on the school environment, and statutory requirements.

Students with Disabilities

The discipline of students with disabilities is subject to applicable state and federal law in addition to the Student Code of Conduct. To the extent any conflict exists, the district shall comply with federal law. For more information regarding discipline of students with disabilities, see policy FOF(LEGAL).

In accordance with the Education Code, a student who receives special education services may not be disciplined for conduct meeting the definition of bullying, cyberbullying, harassment, or making hit lists (see glossary) until an ARD committee meeting has been held to review the conduct.

In deciding whether to order suspension, DAEP placement, or expulsion, regardless of whether the action is mandatory or discretionary, the district shall take into consideration a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.

Techniques

The following discipline management techniques may be used alone, in combination, or as part of progressive interventions for behavior prohibited by the Student Code of Conduct or by campus or classroom rules:

- Verbal correction, oral or written.
- Cooling-off time or a brief "time-out" period, in accordance with law.
- Seating changes within the classroom or vehicles owned or operated by the district.
- Temporary confiscation of items that disrupt the educational process.
- Rewards or demerits.
- Behavioral contracts.
- Counseling by teachers, school counselors, or administrative personnel.
- Parent-teacher conferences.
- Behavior coaching.
- Anger management classes.
- Mediation (victim-offender).

- Family group conferencing.
- Grade reductions for cheating, plagiarism, and as otherwise permitted by policy.
- Detention, including outside regular school hours.
- Sending the student to the office or other assigned area, or to in-school suspension.
- Assignment of school duties, such as cleaning or picking up litter.
- Withdrawal of privileges, such as participation in extracurricular activities, eligibility for seeking and holding honorary offices, or membership in school-sponsored clubs and organizations.
- Penalties identified in individual student organizations' extracurricular standards of behavior.
- Restriction or revocation of district transportation privileges.
- School-assessed and school-administered probation.
- Out-of-school suspension, as specified in the Out-of-School Suspension section of this Code.
- Placement in a DAEP, as specified in the DAEP section of this Code.
- Placement and/or expulsion in an alternative educational setting, as specified in the Placement and/or Expulsion for Certain Offenses section of this Code.
- Expulsion, as specified in the Expulsion section of this Code.
- Referral to an outside agency or legal authority for criminal prosecution in addition to disciplinary measures imposed by the district.
- Other strategies and consequences as determined by school officials.
- *Corporal punishment is prohibited in ECISD.*

Prohibited Aversive Techniques

Aversive techniques are prohibited for use with students and are defined as techniques or interventions intended to reduce the reoccurrence of a behavior by intentionally inflicting significant physical or emotional discomfort or pain. Aversive techniques include:

- Using techniques designed or likely to cause physical pain by electric shock or any procedure involving pressure points or joint locks.
- Directed release of noxious, toxic, or unpleasant spray, mist, or substance near a student's face.
- Denying adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility.
- Ridiculing or demeaning a student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse.
- Employing a device, material, or object that immobilizes all four of a student's extremities, including prone or supine floor restraint.

- Impairing the student's breathing, including applying pressure to the student's torso or neck or placing something in, on, or over the student's mouth or nose or covering the student's face.
- Restricting the student's circulation.
- Securing the student to a stationary object while the student is standing or sitting.
- Inhibiting, reducing, or hindering the student's ability to communicate.
- Using chemical restraints.
- Using time-out in a manner that prevents the student from being able to be involved in and progress appropriately in the required curriculum or any applicable individualized education program (IEP) goals, including isolating the student by the use of physical barriers.
- Depriving the student of one or more of the student's senses, unless the technique does not cause the student discomfort or complies with the student's IEP or behavior intervention plan (BIP).

Notification

The campus behavior coordinator shall promptly notify a student's parent by phone or in person of any violation that may result in in-school or out-of-school suspension, placement in a DAEP, placement in a JJAEP, or expulsion. The campus behavior coordinator shall also notify a student's parent if the student is taken into custody by a law enforcement officer under the disciplinary provisions of the Education Code. A good faith effort shall be made on the day the action was taken to provide to the student for delivery to the student's parent written notification of the disciplinary action. If the parent has not been reached by telephone or in person by 5:00 p.m. of the first business day after the day the disciplinary action was taken, the campus behavior coordinator shall send written notification by U.S. Mail. If the campus behavior coordinator is not able to provide notice to the parent, the principal or designee shall provide the notice.

Before the principal or appropriate administrator assigns a student under age 18 to detention outside regular school hours, notice shall be given to the student's parent to inform him or her of the reason for the detention and permit arrangements for necessary transportation.

Appeals

Questions from parents regarding disciplinary measures should be addressed to the teacher, campus administration, or campus behavior coordinator, as appropriate. Appeals or complaints regarding the use of specific discipline management techniques should be addressed in accordance with policy FNG(LOCAL). A copy of the policy may be obtained from the principal's office, the campus behavior coordinator's office, or the central administration office, or through Policy on Line at the following address: www.ectorcountyisd.org. The district shall not delay a disciplinary consequence while a student or parent pursues a grievance.

Removal from the School Bus

A bus driver may refer a student to the principal's office or the campus behavior coordinator's office to maintain effective discipline on the bus. The principal or campus behavior coordinator must employ additional discipline management techniques, as appropriate, which can include restricting or revoking a student's bus riding privileges.

Since the district's primary responsibility in transporting students in district vehicles is to do so as safely as possible, the operator of the vehicle must focus on driving and not have his or her attention distracted by student misbehavior. Therefore, when appropriate disciplinary management techniques fail to improve student behavior or when specific misconduct warrants immediate removal, the principal or the campus behavior coordinator may restrict or revoke a student's transportation privilege, in accordance with law.

Misconduct will be punished in accordance with the Student Code of Conduct; the privilege to ride in a district vehicle, including a school bus, may be suspended or revoked.

The consequences for misconduct on the bus will be as follows:

- First offense – the driver will have a conference with the student and change seating arrangements if necessary.
- Second offense – the driver will contact parents seeking their assistance. Further incidents will result in written referrals.
- First written referral – the Principal will have a conference with the student and parents will be contacted.
- Second written referral – the student will receive a 5-day suspension from the bus.
- Third written referral – the student will be suspended from the bus for the remainder of the semester.

After returning to the bus in the second semester, if the student receives another bus referral, the student shall be removed from the bus for the remainder of the school year.

*In the event of initiation and/or participation in a major offense, a student may lose bus privileges for an undetermined length of time. The student may also receive other disciplinary action. Flagrant misbehavior could result in immediate removal from the bus. Restitution for any damages incurred must be made before returning to the bus.

Student must be dressed according to the dress code when riding the regular bus to and from school.

Removal from the Regular Educational Setting

In addition to other discipline management techniques, misconduct may result in removal from the regular educational setting in the form of a routine referral or a formal removal.

Routine Referral

A routine referral occurs when a teacher sends a student to the campus behavior coordinator's office as a discipline management technique. The campus behavior coordinator shall employ alternative discipline management techniques, including progressive interventions. A teacher or administrator may remove a student from class for a behavior that violates this Code to maintain effective discipline in the classroom.

Formal Removal

A teacher **may** also initiate a formal removal from class if:

1. The student's behavior has been documented by the teacher as repeatedly interfering with the teacher's ability to teach his or her class or with the student's classmates' ability to learn; or
2. The behavior is so unruly, disruptive, or abusive that the teacher cannot teach, and the students in the classroom cannot learn.

Within three school days of the formal removal, the campus behavior coordinator or appropriate administrator shall schedule a conference with the student's parent, the student, the teacher who removed the student from class, and any other appropriate administrator.

At the conference, the campus behavior coordinator or appropriate administrator shall inform the student of the alleged misconduct and the proposed consequences. The student shall have an opportunity to respond to the allegations.

When a student is removed from the regular classroom by a teacher and a conference is pending, the campus behavior coordinator or other administrator may place the student in:

- Another appropriate classroom;
- In-school suspension;
- Out-of-school suspension; or
- DAEP.

A teacher or administrator **must** remove a student from class if the student engages in behavior that under the Education Code requires or permits the student to be placed in a DAEP or expelled. When removing for those reasons, the procedures in the subsequent sections on DAEP or expulsion shall be followed.

Returning a Student to the Classroom

When a student has been formally removed from class by a teacher for conduct against the teacher containing the elements of assault, aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, or criminal attempt to commit murder or capital murder, the student may not be returned to the teacher's class without the teacher's consent. When a student has been formally removed by a teacher for any other conduct, the student may be returned to the teacher's class without the teacher's consent if the placement review committee determines that the teacher's class is the best or only alternative available.

Out-of-School Suspension

Misconduct

Students may be suspended for any behavior listed in the Code as a general conduct violation, DAEP offense, or expellable offense.

The district shall not use out-of-school suspension for students in grade 2 or below unless the conduct meets the requirements established in law.

A student below grade 3 or a student who is homeless shall not be placed in out-of-school suspension unless, while on school property or while attending a school-sponsored or school-related activity on or off school property, the student engages in:

- Conduct that contains the elements of a weapons offense, as provided in Penal Code Section 46.02 or 46.05;
- Conduct that contains the elements of assault, sexual assault, aggravated assault, or aggravated sexual assault, as provided by the Penal Code; or
- Selling, giving, or delivering to another person, or possessing, using, or being under the influence of any amount of marijuana, an alcoholic beverage, or a controlled substance or dangerous drug as defined by federal or state law.

The district shall use a positive behavior program as a disciplinary alternative for students below grade 3 who commit general conduct violations instead of suspension or placement in a DAEP. The program shall meet the requirements of law.

Process

State law allows a student to be suspended for no more than three school days per behavior violation, with no limit on the number of times a student may be suspended in a semester or schoolyear.

Before being suspended a student shall have an informal conference with the

campus behavior coordinator or appropriate administrator, who shall advise the student of the alleged misconduct. The student shall have the opportunity to respond to the allegation before the administrator makes a decision.

The campus behavior coordinator shall determine the number of days of a student's suspension, not to exceed three school days.

In deciding whether to order out-of-school suspension, the campus behavior coordinator shall take into consideration:

- Self-defense (see glossary);
- Intent or lack of intent at the time the student engaged in the conduct;
- The student's disciplinary history;
- A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
- A student's status in the conservatorship of the Department of Family and Protective Services (foster care); and
- A student's status as homeless.

The appropriate administrator shall determine any restrictions on participation in school-sponsored or school-related extracurricular and co-curricular activities.

Coursework During Suspension

The district shall ensure a student receives access to coursework for foundation curriculum courses while the student is placed in in-school or out-of-school suspension, including at least one method of receiving this coursework that doesn't require the use of the internet.

A student removed from the regular classroom to in-school suspension or another setting, other than a DAEP, will have an opportunity to complete before the beginning of the next school year each course the student was enrolled in at the time of removal from the regular classroom. The district may provide the opportunity by any method available, including a correspondence course, another distance learning option, or summer school. The district will not charge the student for any method of completion provided by the district.

Disciplinary Alternative Education Program (DAEP) Placement

The DAEP shall be provided in a setting other than the student's regular classroom. An elementary school student may not be placed in a DAEP with a student who is not an elementary school student.

For purposes of DAEP, elementary classification shall be kindergarten–grade 5 and secondary classification shall be grades 6–12.

Summer programs provided by the district shall serve students assigned to a DAEP separately from those students who are not assigned to the program.

A student who is expelled for an offense that otherwise would have resulted in a DAEP placement does not have to be placed in a DAEP in addition to the expulsion.

In deciding whether to place a student in a DAEP, regardless of whether the action is mandatory or discretionary, the campus behavior coordinator shall take into consideration:

- Self-defense (see glossary);
- Intent or lack of intent at the time the student engaged in the conduct;
- The student's disciplinary history;
- A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
- A student's status in the conservatorship of the Department of Family and Protective Services (foster care); and
- A student's status as homeless.

Discretionary Placement: Misconduct That May Result in DAEP Placement

A student **may** be placed in a DAEP for behaviors prohibited in the General Conduct Violations section of this Code.

Misconduct Identified in State Law

In accordance with state law, a student **may** be placed in a DAEP for any one of the following offenses:

- Engaging in bullying that encourages a student to commit or attempt to commit suicide.
- Inciting violence against a student through group bullying.
- Releasing or threatening to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.
- Involvement in a public school fraternity, sorority, or secret society, including participating as a member or pledge, or soliciting another person to become a pledge or member of a public school fraternity, sorority, secret society, or gang. (See glossary)
- Involvement in criminal street gang activity. (See glossary)
- Any criminal mischief, including a felony.
- Assault (no bodily injury) with threat of imminent bodily injury.
- Assault by offensive or provocative physical contact.

In accordance with state law, a student **may** be placed in a DAEP if the superintendent or the superintendent's designee has reasonable belief (see glossary) that the student has engaged in conduct punishable as a felony, other than aggravated robbery or those listed as offenses in Title 5 (see glossary) of the

Penal Code, that occurs off school property and not at a school-sponsored or school-related event, if the student's presence in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

The campus behavior coordinator **may**, but is not required to, place a student in a DAEP for off-campus conduct for which DAEP placement is required by state law if the administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.

Mandatory Placement: Misconduct That Requires DAEP Placement

A student **must** be placed in a DAEP if the student:

- Engages in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school. (See glossary)
- Commits the following offenses on school property or within 300 feet of school property as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:
 - Engages in conduct punishable as a felony.
 - Commits an assault (see glossary) under Penal Code 22.01(a)(1).
 - Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of marijuana, a controlled substance, or a dangerous drug in an amount not constituting a felony offense. A student with a valid prescription for low-THC cannabis as authorized by Chapter 487 of the Health and Safety Code does not violate this provision. (School-related felony drug offenses are addressed in the **Expulsion** section.) (See glossary for "under the influence.")
 - Sells, gives, or delivers to another person an alcoholic beverage; commits a serious act or offense while under the influence of alcohol; or possesses, uses, or is under the influence of alcohol, if the conduct is not punishable as a felony offense. (School-related felony alcohol offenses are addressed in the **Expulsion** section.)
 - Behaves in a manner that contains the elements of an offense relating to abusable volatile chemicals.
 - Sells, gives, or delivers to another person or possesses or uses an e-cigarette.
 - Behaves in a manner that contains the elements of the offense of public lewdness or indecent exposure. (See glossary)
 - Engages in conduct that contains the elements of an offense of harassment against an employee under Penal Code 42.07 (a) (1), (2), (3), or (7).
 - A student who sells, gives, delivers, possesses, uses, or is under the influence of ⁵⁹⁰marijuana, a controlled substance (see

definitions), a dangerous drug (see definitions), or an alcoholic

beverage (see definitions), if the offense is not punishable as a felony and the student is not expelled for the offense.

Upon the first offense, the student shall attend DAEP for up to a period of (10) ten days and will be provided positive student behavior support.

Upon second offense, the student shall be transferred to DAEP for a period of (20) twenty days and will be provided positive student behavior support.

Upon the third offense, the student shall be transferred to DAEP for a period of (30) days and will be provided positive student behavior support.

After the DAEP placement has been completed, the student will return to their home campus.

For determining the length of placement, cumulative offenses will only be counted for the current school year.

- Engages in expellable conduct and is between six and nine years of age.
- Commits a federal firearms violation and is younger than six years of age.
- Engages in conduct that contains the elements of the offense of retaliation against any school employee or volunteer on or off school property. (Committing retaliation in combination with another expellable offense is addressed in the **Expulsion** section of this Code.)
- Engages in conduct punishable as aggravated robbery or a felony listed under Title 5 (see glossary) of the Penal Code when the conduct occurs off school property and not at a school-sponsored or school-related event and:
 - The student receives deferred prosecution (see glossary),
 - A court or jury finds that the student has engaged in delinquent conduct (see glossary), or
 - The superintendent or designee has a reasonable belief (see glossary) that the student engaged in the conduct.

Sexual Assault and Campus Assignments

If a student has been convicted of continuous sexual abuse of a young child or children, or convicted of or placed on deferred adjudication for sexual assault or aggravated sexual assault against another student on the same campus, and if the victim's parent or another person with the authority to act on behalf of the victim requests that the board transfer the offending student to another campus, the offending student shall be transferred to another campus in the district. If there is no other campus in the district serving the grade level of the offending student, the offending student shall be transferred to a DAEP.

Process

Removals to a DAEP shall be made by the campus behavior coordinator.

Conference

When a student is removed from class for a DAEP offense, the campus behavior coordinator or appropriate administrator shall schedule a conference within three school days with the student's parent, the student, and the teacher, in the case of a teacher removal.

At the conference, the campus behavior coordinator or appropriate administrator shall inform the student, orally or in writing, of the reasons for the removal and shall give the student an explanation of the basis for the removal and an opportunity to respond to the reasons for the removal.

Following valid attempts to require attendance, the district may hold the conference and make a placement decision regardless of whether the student or the student's parents attend the conference.

Consideration of Mitigating Factors

In deciding whether to place a student in a DAEP, regardless of whether the action is mandatory or discretionary, the campus behavior coordinator shall take into consideration:

- Self-defense (see glossary);
- Intent or lack of intent at the time the student engaged in the conduct;
- The student's disciplinary history;
- A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
- A student's status in the conservatorship of the Department of Family and Protective Services (foster care); or
- A student's status as homeless.

Placement Order

After the conference, if the student is placed in the DAEP, the campus behavior coordinator shall write a placement order. A copy of the DAEP placement order shall be sent to the student and the student's parent. Information for the parent or person standing in parental relation to the student regarding the process for requesting a full individual and initial evaluation of the student for the purposes of special education services.

Not later than the second business day after the conference, the board's designee shall deliver to the juvenile court a copy of the placement order and all information required by Section 52.04 of the Family Code.

If the student is placed in the DAEP and the length of placement is inconsistent with

the guidelines included in this Code, the placement order shall give notice of the inconsistency.

DAEP at Capacity

If a DAEP is at capacity at the time the CBC is deciding placement for conduct related to marijuana, THC, an e-cigarette, alcohol, or an abusable volatile chemical, the student shall be placed in ISS then transferred to a DAEP for the remainder of the period if space becomes available before the expiration of the period of the placement.

If a DAEP is at capacity at the time the CBC is deciding placement for a student who engaged in violent conduct, a student placed in a DAEP for conduct related to marijuana, THC, an e-cigarette, alcohol, or an abusable volatile chemical may be placed in ISS to make a position in the DAEP available for the student who engaged in violent conduct. If a position becomes available in a DAEP before the expiration of the period of the placement for the student removed, the student shall be returned to a DAEP for the remainder of the period.

Coursework Notice

The parent or guardian of a student placed in DAEP shall be given written notice of the student's opportunity to complete a foundation curriculum course in which the student was enrolled at the time of removal and which is required for graduation, at no cost to the student. The notice shall include information regarding all methods available for completing the coursework.

Length of Placement

The campus behavior coordinator shall determine the duration of a student's placement in a DAEP.

The duration of a student's placement shall be determined case-by-case based on the seriousness of the offense, the student's age and grade level, the frequency of misconduct, and statutory requirements.

The maximum period of DAEP placement shall be one calendar year, except as provided below.

Unless otherwise specified in the placement order, days absent from a DAEP shall not count toward fulfilling the total number of days required in a student's DAEP placement order.

The district shall administer the required pre- and post-assessments for students assigned to DAEP for a period of 90 days or longer in accordance with established district administrative procedures for administering other diagnostic or benchmark assessments.

Exceeds One Year

Placement in a DAEP may exceed one year when a review by the district determines that the student is a threat to the safety of other students or to district employees.

The statutory limitations on the length of a DAEP placement do not apply to a placement resulting from the board's decision to place a student who engaged in

the sexual assault of another student so that the students are not assigned to the same campus.

Exceeds School Year

Students who commit offenses requiring placement in a DAEP at the end of one school year may be required to continue that placement at the start of the next school year to complete the assigned term of placement.

For placement in a DAEP to extend beyond the end of the school year, the campus behavior coordinator or the board's designee must determine that:

- The student's presence in the regular classroom or campus presents a danger of physical harm to the student or others; or
- The student has engaged in serious or persistent misbehavior (see glossary) that violates the district's Code.

Exceeds 60 Days

For placement in a DAEP to extend beyond 60 days or the end of the next grading period, whichever is sooner, a student's parent shall be given notice and the opportunity to participate in a proceeding before the board or the board's designee.

Appeals

Questions from parents regarding disciplinary measures should be addressed to the campus administration.

Student or parent appeals regarding a student's placement in a DAEP should be addressed in accordance with policy FNG(LOCAL). A copy of this policy may be obtained from the principal's office, the campus behavior coordinator's office, the central administration office, or through Policy On Line at the following address: www.ectorcountysd.org.

Appeals shall begin with the campus principal or designee.

The district shall not delay disciplinary consequences pending the outcome of an appeal. The decision to place a student in a DAEP cannot be appealed beyond the board.

Restrictions During Placement

State law prohibits a student placed in a DAEP for reasons specified in state law from attending or participating in school-sponsored or school-related extracurricular activities.

The district may provide transportation to students placed at the Alternative Education Center (AEC). Transportation may be revoked when conduct on the bus warrants removal from the bus for the duration of the placement.

For seniors who are eligible to graduate and are assigned to a DAEP at the time of graduation, the last day of placement in the program shall be the last instructional day, and the student shall be allowed to participate in the graduation ceremony and related graduation activities unless otherwise specified in the DAEP placement order.

Placement Review

A student placed in a DAEP shall be provided a review of his or her status, including

academic status, by the campus behavior coordinator or the board's designee at intervals not to exceed 120 days. In the case of a high school student, the student's progress toward graduation and the student's graduation plan shall also be reviewed. At the review, the student or the student's parent shall be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of a teacher who removed the student without that teacher's consent.

Additional Misconduct

If during the term of placement in a DAEP the student engages in additional misconduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted, and the campus behavior coordinator may enter an additional disciplinary order as a result of those proceedings.

Notice of Criminal Proceedings

When a student is placed in a DAEP for certain offenses, the office of the prosecuting attorney shall notify the district if:

- Prosecution of a student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication (see glossary), or deferred prosecution will be initiated; or
- The court or jury found a student not guilty, or made a finding that the student did not engage in delinquent conduct or conduct indicating a need for supervision, and the case was dismissed with prejudice.

If a student was placed in a DAEP for such conduct, on receiving the notice from the prosecutor, the superintendent or designee shall review the student's placement and schedule a review with the student's parent not later than the third day after the superintendent or designee receives notice from the prosecutor. The student may not be returned to the regular classroom pending the review.

After reviewing the notice and receiving information from the student's parent, the superintendent or designee may continue the student's placement if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

The student or the student's parent may appeal the superintendent's decision to the board. The student may not be returned to the regular classroom pending the appeal. In the case of an appeal, the board shall, at the next scheduled meeting, review the notice from the prosecutor and receive information from the student, the student's parent, and the superintendent or designee, and confirm or reverse the decision of the superintendent or designee. The board shall make a record of the proceedings.

If the board confirms the decision of the superintendent or designee, the student

and the student's parent may appeal to the Commissioner of Education. The student may not be returned to the regular classroom pending the appeal.

Withdrawal During Process

When a student violates the district's Code in a way that requires or permits the student to be placed in a DAEP and the student withdraws from the district before a placement order is completed, the campus behavior coordinator may complete the proceedings and issue a placement order. If the student then re-enrolls in the district during the same or a subsequent school year, the district may enforce the order at that time, less any period of the placement that has been served by the student during enrollment in another district. If the campus behavior coordinator or the board fails to issue a placement order after the student withdraws, the next district in which the student enrolls may complete the proceedings and issue a placement order.

Newly Enrolled Students

ECISD shall continue the DAEP placement of a student including Student Transfers, who enroll in the district and who is currently completing DAEP assignments with an open- enrollment charter school or another Texas district at the time of enrollment in ECISD. The student will be placed into the District's DAEP to complete the term of their DAEP placement provided the basis for the placement is also a reason for DAEP placement in ECISD. If the enrolling student's DAEP placement period exceeds district policy, ECISD shall alter the period of placement so that the total placement allocation does not violate the receiving district's policy.

A newly enrolled student with a DAEP placement from a district in another state shall be placed as any other newly enrolled student if the behavior committed is a reason for DAEP placement in the receiving district.

If the student was placed in a DAEP by a school district in another state for a period that exceeds one year, this district, by state law, shall reduce the period of the placement so that the total placement does not exceed one year. After a review, however, the placement may be extended beyond a year if the district determines that the student is a threat to the safety of other students or employees or the extended placement is in the best interest of the student.

Emergency Placement Procedure

When an emergency placement is necessary because the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with classroom or school operations, the student shall be given oral notice of the reason for the action. Not later than the tenth day after the date of the placement, the student shall be given the appropriate conference required for assignment to a DAEP.

In accordance with law and district procedures, campus staff shall provide transition services to a student returning to the regular classroom from an alternative education program, including a DAEP. [See policy FOCA(LEGAL) for more information.]

Placement and/or Expulsion for Certain Offenses

This section includes two categories of offenses for which the Education Code provides unique procedures and specific consequences.

Registered Sex Offenders

Upon receiving notification in accordance with state law that a student is currently required to register as a sex offender, the district must remove the student from the regular classroom and determine appropriate placement unless the court orders JJAEP placement.

If the student is under any form of court supervision, including probation, community supervision, or parole, the placement shall be in either DAEP or JJAEP for at least one semester.

If the student is not under any form of court supervision, the placement may be in DAEP or JJAEP for one semester or the placement may be in a regular classroom. The placement may not be in the regular classroom if the board or its designee determines that the student's presence:

- Threatens the safety of other students or teachers,
- Will be detrimental to the educational process, or
- Is not in the best interests of the district's students.

Review Committee

At the end of the first semester of a student's placement in an alternative educational setting and before the beginning of each school year for which the student remains in an alternative placement, the district shall convene a committee, in accordance with state law, to review the student's placement. The committee shall recommend whether the student should return to the regular classroom or remain in the placement. Absent a special finding, the board or its designee must follow the committee's recommendation.

The placement review of a student with a disability who receives special education services must be made by the ARD committee.

Newly Enrolled Student

If a student enrolls in the district during a mandatory placement as a registered sex offender, the district may count any time already spent by the student in a placement or may require an additional semester in an alternative placement

without conducting a review of the placement.

Appeal

A student or the student's parent may appeal the placement by requesting a conference between the board or its designee, the student, and the student's parent. The conference is limited to the factual question of whether the student is required to register as a sex offender. Any decision of the board or its designee under this section is final and may not be appealed.

Certain Felonies

Regardless of whether placement or expulsion is required or permitted by one of the reasons in the **DAEP Placement** or **Expulsion** sections, in accordance with Education Code 37.0081, a student may be expelled and placed in either DAEP or JJAEP if the board or campus behavior coordinator makes certain findings and the following circumstances exist in relation to aggravated robbery or a felony offense under Title 5 (see glossary) of the Penal Code. The student must:

- Have received deferred prosecution for conduct defined as aggravated robbery or a Title 5 felony offense;
- Have been found by a court or jury to have engaged in delinquent conduct for conduct defined as aggravated robbery or a Title 5 felony offense;
- Have been charged with engaging in conduct defined as aggravated robbery or a Title 5 felony offense;
- Have been referred to a juvenile court for allegedly engaging in delinquent conduct for conduct defined as aggravated robbery or a Title 5 felony offense;
- or
- Have received probation or deferred adjudication or have been arrested for, charged with, or convicted of aggravated robbery or a Title 5 felony offense.

The district may expel the student and order placement under these circumstances regardless of:

- The date on which the student's conduct occurred,
- The location at which the conduct occurred,
- Whether the conduct occurred while the student was enrolled in the district, or
- Whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.

Hearing and Required Findings

The student must first have a hearing before the board or its designee, who must determine that in addition to the circumstances above that allow for the expulsion, the student's presence in the regular classroom:

- Threatens the safety of other students or teachers,
- Will be detrimental to the educational process, or

- Is not in the best interest of the district's students.

Any decision of the board or the board's designee under this section is final and may not be appealed.

Length of Placement

The student is subject to the placement until:

- The student graduates from high school,
- The charges are dismissed or reduced to a misdemeanor offense, or
- The student completes the term of the placement or is assigned to another program.

Placement Review

A student placed in a DAEP or JJAEP under these circumstances is entitled to a review of his or her status, including academic status, by the campus behavior coordinator or board's designee at intervals not to exceed 120 days. In the case of a high school student, the student's progress toward graduation and the student's graduation plan shall also be reviewed. At the review, the student or the student's parent shall have the opportunity to present arguments for the student's return to the regular classroom or campus.

Newly Enrolled Students

A student who enrolls in the district before completing a placement under this section from another school district must complete the term of the placement.

Expulsion

In deciding whether to order expulsion, regardless of whether the action is mandatory or discretionary, the campus behavior coordinator shall take into consideration:

- Self-defense (see glossary);
- Intent or lack of intent at the time the student engaged in the conduct,
- The student's disciplinary history;
- A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
- A student's status in the conservatorship of the Department of Family and Protective Services (foster care); and
- A student's status as homeless.

Discretionary Expulsion: Misconduct That May Result in Expulsion

Some of the following types of misconduct may result in mandatory placement in a DAEP, whether or not a student is expelled. (See **DAEP Placement**)

Any Location

A student **may** be expelled for:

- Engaging in bullying that encourages a student to commit or attempt to commit suicide.
- Inciting violence against a student through group bullying.
- Releasing or threatening to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.
- Conduct that contains the elements of assault under Penal Code 22.01(a)(1) in retaliation against a school employee or volunteer.
- Criminal mischief, if punishable as a felony.
- Engaging in conduct that contains the elements of one of the following offenses against another student:
 - Aggravated assault.
 - Sexual assault.
 - Aggravated sexual assault.
 - Murder.
 - Capital murder.
 - Criminal attempt to commit murder or capital murder.
 - Aggravated robbery.
- Breach of computer security. (See glossary)
- Engaging in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school.

At School, Within 300 Feet, or at a School Event

A student **may** be expelled for committing any of the following offenses on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

- Selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, or a dangerous drug, if the conduct is not punishable as a felony. A student with a valid prescription for low-THC cannabis as authorized by Chapter 487 of the Health and Safety Code does not violate this provision. (See glossary for "under the influence.")
- Selling, giving, or delivering to another person, or possessing, using, or being under the influence of alcohol; or committing a serious act or offense while under the influence of alcohol, if the conduct is not punishable as a felony.

- Engaging in conduct that contains the elements of an offense relating to abusable volatile chemicals.
- Engaging in conduct that contains the elements of assault under Section 22.01(a)(1) against an employee or a volunteer.
- Engaging in deadly conduct. (See glossary)

Within 300 Feet of School

A student **may** be expelled for engaging in the following conduct while within 300 feet of school property, as measured from any point on the school's real property boundary line:

- Aggravated assault, sexual assault, or aggravated sexual assault.
- Arson. (See glossary)
- Murder, capital murder, or criminal attempt to commit murder or capital murder.
- Indecency with a child, aggravated kidnapping, manslaughter, criminally negligent homicide, or aggravated robbery.
- Continuous sexual abuse of a young child or children.
- Felony drug- or alcohol-related offense.
- Unlawfully carrying on or about the student's person a handgun or a location-restricted knife, as these terms are defined by state law. (See glossary)
- Possessing, manufacturing, transporting, repairing, or selling a prohibited weapon, as defined by state law. (See glossary)
- Possession of a firearm, as defined by federal law. (See glossary)

Property of Another District

A student **may** be expelled for committing any offense that is a state-mandated expellable offense if the offense is committed on the property of another district in Texas or while the student is attending a school-sponsored or school-related activity of a school in another district in Texas.

While in DAEP

A student **may** be expelled for engaging in documented serious misbehavior that violates the district's Code, despite documented behavioral interventions while placed in a DAEP. For purposes of discretionary expulsion from a DAEP, serious misbehavior means:

- Deliberate violent behavior that poses a direct threat to the health or safety of others;
- Extortion, meaning the gaining of money or other property by force or threat;
- Conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or
- Conduct that constitutes the offense of:
 - Public lewdness under Penal Code 21.07;
 - Indecent exposure under Penal Code 21.08;

- Criminal mischief under Penal Code 28.03;
- Hazing under Education Code 37.152; or
- Harassment under Penal Code 42.07(a)(1) of a student or district employee.

Mandatory Expulsion: Misconduct That Requires Expulsion

A student **must** be expelled under federal or state law for any of the following offenses that occur on school property or while attending a school-sponsored or school-related activity on or off school property:

Under Federal Law

Bringing to school or possessing at school, including any setting that is under the district’s control or supervision for the purpose of a school activity, a firearm, as defined by federal law. (See glossary)

Note: Mandatory expulsion under the federal Gun Free Schools Act does not apply to a firearm that is lawfully stored inside a locked vehicle, or to firearms used in activities approved and authorized by the district when the district has adopted appropriate safeguards to ensure student safety.

Under the Penal Code

- Unlawfully carrying on or about the student’s person the following, in the manner prohibited by Penal Code 46.02:
 - A handgun, defined by state law as any firearm designed, made, or adapted to be used with one hand. (See glossary)

Note: A student may not be expelled solely on the basis of the student’s use, exhibition, or possession of a firearm that occurs at an approved target range facility that is not located on a school campus, while participating in or preparing for a school-sponsored, shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department, or a shooting sports sanctioning organization working with the department. [See policy FNCG(LEGAL).]
 - A location-restricted knife, as defined by state law. (See glossary.)
- Possessing, manufacturing, transporting, repairing, or selling a prohibited weapon, as defined in state law. (See glossary)
- Behaving in a manner that contains elements of the following offenses under the Penal Code:
 - Aggravated assault, sexual assault, or aggravated sexual assault.
 - Arson. (See glossary)

- Murder, capital murder, or criminal attempt to commit murder or capital murder.
 - Indecency with a child.
 - Aggravated kidnapping.
 - Aggravated robbery.
 - Manslaughter.
 - Criminally negligent homicide.
 - Continuous sexual abuse of a young child or children.
 - Behavior punishable as a felony that involves selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, a dangerous drug, or alcohol; or committing a serious act or offense while under the influence of alcohol.
- Engaging in retaliation against a school employee or volunteer combined with one of the above-listed mandatory expulsion offenses.

Under Age Ten

When a student under the age of ten engages in behavior that is expellable behavior, the student shall not be expelled, but shall be placed in a DAEP. A student under age six shall not be placed in a DAEP unless the student commits a federal firearm offense.

Process

If a student is believed to have committed an expellable offense, the campus behavior coordinator or other appropriate administrator shall schedule a hearing within a reasonable time. The student's parent shall be invited in writing to attend the hearing.

Until a hearing can be held, the campus behavior coordinator or other administrator may place the student in:

- Another appropriate classroom,
- In-school suspension,
- Out-of-school suspension, or
- DAEP.

Hearing

A student facing expulsion shall be given a hearing with appropriate due process. The student is entitled to:

- Representation by the student's parent or another adult who can provide guidance to the student and who is not an employee of the district;
- An opportunity to testify and to present evidence and witnesses in the

- student's defense; and
- An opportunity to question the witnesses called by the district at the hearing.

After providing notice to the student and parent of the hearing, the district may hold the hearing regardless of whether the student or the student's parent attends.

The Board of Trustees delegates to the Superintendent's designee authority to conduct hearings and expel students.

Board Review of Expulsion

After the due process hearing, the expelled student may request that the board review the expulsion decisions. The student or parent must submit a written request to the superintendent within seven days after receipt of the written decision. The superintendent must provide the student or parent written notice of the date, time, and place of the meeting at which the board will review the decision.

The board shall review the record of the expulsion hearing in a closed meeting unless the parent requests in writing that the matter be held in an open meeting. The board may also hear a statement from the student or parent and from the board's designee.

The board shall consider and base its decision on evidence reflected in the record and any statements made by the parties at the review. The board shall make and communicate its decision orally at the conclusion of the presentation. Consequences shall not be deferred pending the outcome of the hearing.

Expulsion Order

Before ordering the expulsion, the board or campus behavior coordinator shall take into consideration:

- Self-defense (see glossary);
- Intent or lack of intent at the time the student engaged in the conduct;
- The student's disciplinary history;
- A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
- A student's status in the conservatorship of the Department of Family and Protective Services (foster care); and
- A student's status as homeless.

If the student is expelled, the board or its designee shall deliver to the student and the student's parent a copy of the order expelling the student.

Not later than the second business day after the hearing, the hearing officer shall deliver to the juvenile court a copy of the expulsion order and the information required by Section 52.04 of the Family Code.

If the length of the expulsion is inconsistent with the guidelines included in the Student Code of Conduct, the expulsion order shall give notice of the inconsistency.

Length of Expulsion

The length of an expulsion shall be based on the seriousness of the offense, the student's age and grade level, the frequency of misbehavior, and statutory requirements.

The duration of a student's expulsion shall be determined on a case-by-case basis. The maximum period of expulsion is one calendar year, except as provided below.

An expulsion may not exceed one year unless, after review, the district determines that:

- The student is a threat to the safety of other students or to district employees, or
- Extended expulsion is in the best interest of the student.

State and federal law require a student to be expelled from the regular classroom for a period of at least one calendar year for bringing a firearm, as defined by federal law, to school. However, the superintendent may modify the length of the expulsion on a case-by-case basis.

Students who commit offenses that require expulsion at the end of one school year may be expelled into the next school year to complete the term of expulsion.

Withdrawal During Process

When a student has violated the district's Code in a way that requires or permits expulsion from the district and the student withdraws from the district before the expulsion hearing takes place, the district may conduct the hearing after sending written notice to the parent and student.

If the student then re-enrolls in the district during the same or subsequent school year, the district may enforce the expulsion order at that time, less any expulsion period that has been served by the student during enrollment in another district.

If the campus behavior coordinator or the board fails to issue an expulsion order after the student withdraws, the next district in which the student enrolls may complete the proceedings.

Additional Misconduct

If during the expulsion, the student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted, and the campus behavior coordinator or the board may issue an additional disciplinary order as a result of those proceedings.

Restrictions During Expulsion

Expelled students are prohibited from being on school grounds or attending school-sponsored or school-related activities during the period of expulsion.

No district academic credit shall be earned for work missed during the period of expulsion unless the student is enrolled in a JJAEP or another district-approved program.

Newly Enrolled Students

The district shall continue the expulsion of any newly enrolled student expelled from another district or an open-enrollment charter school until the period of the expulsion is completed, provided the behavior is also a reason for expulsion in the enrolling district. If the expulsion exceeds one year, the District will reduce the period of the expulsion so that the total expulsion does not exceed one year unless the district determines that the student is a threat to the safety of others or extended placement is in the best interest of the student.

If a student expelled in another state enrolls in the district, the district may continue the expulsion under the terms of the expulsion order, may place the student in a DAEP for the period specified in the order, or may allow the student to attend regular classes if:

- The out-of-state district provides the district with a copy of the expulsion order,
- The offense resulting in the expulsion is also an expellable offense in the district in which the student is enrolling.

If a student is expelled by a district in another state for a period that exceeds one year and the district continues the expulsion or places the student in a DAEP, the district shall reduce the period of the expulsion or DAEP placement so that the entire period does not exceed one year, unless after a review it is determined that:

- The student is a threat to the safety of other students or district employees, or
- Extended placement is in the best interest of the student.

Emergency Expulsion Procedures

When an emergency expulsion is necessary to protect persons or property from imminent harm, the student shall be given verbal notice of the reason for the action. Within ten days after the date of the emergency expulsion, the student shall be given appropriate due process required for a student facing expulsion.

DAEP Placement of Expelled Students

The district may provide educational services to any expelled student in a DAEP; however, educational services in the DAEP must be provided if the student is less than ten years of age.

Transition Services

In accordance with law and district procedures, campus staff shall provide transition services for a student returning to the regular classroom from placement in an alternative education program, including a DAEP or JJAEP. See policies FOCA(LLEGAL) and FODA(LLEGAL) for more information.

Glossary

Abuse is improper or excessive use.

Aggravated robbery is defined in part by Penal Code 29.03(a) as when a person commits robbery and:

- Causes serious bodily injury to another;
- Uses or exhibits a deadly weapon; or
- Causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death, if the other person is:
 - 65 years of age or older, or
 - A disabled person.

Armor-piercing ammunition is defined by Penal Code 46.01 as handgun ammunition used in pistols and revolvers and designed primarily for the purpose of penetrating metal or body armor.

Arson is defined in part by Penal Code 28.02 as:

- A crime that involves starting a fire or causing an explosion with intent to destroy or damage:
 - Any vegetation, fence, or structure on open-space land; or
 - Any building, habitation, or vehicle:
 - Knowing that it is within the limits of an incorporated city or town,
 - Knowing that it is insured against damage or destruction,
 - Knowing that it is subject to a mortgage or other security interest,
 - Knowing that it is located on property belonging to another,
 - Knowing that it has located within it property belonging to another, or
 - When the person starting the fire is reckless about whether the burning or explosion will endanger the life of some individual or the safety of the property of another.
- A crime that involves recklessly starting a fire or causing an explosion while manufacturing or attempting to manufacture a controlled substance and the fire or explosion damages any building, habitation, or vehicle; or
- A crime that involves intentionally starting a fire or causing an explosion and in so doing:
 - Recklessly damages or destroys a building belonging to another, or
 - Recklessly causes another person to suffer bodily injury or death.

Assault is defined in part by Penal Code §22.01(a)(1) as intentionally, knowingly, or recklessly causing bodily injury to another; §22.01(a)(2) as intentionally or knowingly threatening another with imminent bodily injury; and §22.01(a)(3) as intentionally or knowingly causing physical contact with another that can reasonably be regarded as offensive or provocative.

Breach of Computer Security includes knowingly accessing a computer, computer network, or computer system without the effective consent of the owner as defined in Penal Code 33.02, if the conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and the student knowingly alters, damages, or deletes school district property or information; or commits a breach of any other computer, computer network, or computer system.

Bullying is defined in Section 37.0832 of the Education Code as a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, expression through electronic means, or physical conduct that:

- Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property;
- Is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;
- Materially and substantially disrupts the educational process or the orderly operation of a classroom or school; or
- Infringes on the rights of the victim at school.

Bullying includes cyberbullying. (See below) This state law on bullying prevention applies to:

- Bullying that occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property;
- Bullying that occurs on a publicly or privately-owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and
- Cyberbullying that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying interferes with a student's educational opportunities or substantially disrupts the orderly operation of a classroom, school, or school-sponsored or school-related activity.

Chemical dispensing device is defined by Penal Code 46.01 as a device designed, made, or adapted for the purpose of dispensing a substance capable of causing an adverse psychological or physiological effect on a human being. A small chemical dispenser sold commercially for personal protection is not in this category.

Club is defined by Penal Code 46.01 as an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death. A blackjack, nightstick, mace, and tomahawk are in the same category.

Controlled substance means a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Group 1, 1-A, 2, 2-A, 3, or 4 of the

Texas Controlled Substances Act. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance. The term does not include hemp, as defined by Agriculture Code 121.001, or the tetrahydrocannabinols (THC) in hemp.

Criminal street gang is defined by Penal Code 71.01 as three or more persons having a common identifying sign or symbol or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.

Cyberbullying is defined by Section 37.0832 of the Education Code as bullying that is done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an Internet website, or any other Internet-based communication tool.

Dangerous drug is defined by Health and Safety Code 483.001 as a device or a drug that is unsafe for self-medication and that is not included in Schedules I through V or Penalty Groups 1 through 4 of the Texas Controlled Substances Act. The term includes a device or drug that federal law prohibits dispensing without prescription or restricts to use by or on the order of a licensed veterinarian.

Dating violence occurs when a person in a current or past dating relationship uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control another person in the relationship. Dating violence also occurs when a person commits these acts against a person in a marriage or dating relationship with the individual who is or was once in a marriage or dating relationship with the person committing the offense, as defined by Section 71.0021 of the Family Code.

Deadly conduct under Penal Code 22.05 occurs when a person recklessly engages in conduct that places another in imminent danger of serious bodily injury, such as knowingly discharging a firearm in the direction of an individual, habitation, building, or vehicle.

Deferred adjudication is an alternative to seeking a conviction in court that may be offered to a juvenile for delinquent conduct or conduct indicating a need for supervision.

Deferred prosecution may be offered to a juvenile as an alternative to seeking a conviction in court for delinquent conduct or conduct indicating a need for supervision.

Delinquent conduct is conduct that violates either state or federal law and is punishable by imprisonment or confinement in jail. It includes conduct that violates certain juvenile court orders, including probation orders, but does not include violations of traffic laws.

Discretionary means that something is left to or regulated by a local decision maker.

E-cigarette means an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device. The term includes any device that is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description and a component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

Explosive weapon is defined by Penal Code 46.01 as any explosive or incendiary bomb, grenade, rocket, or mine and its delivery mechanism that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror.

False alarm or report under Penal Code 42.06 occurs when a person knowingly initiates, communicates, or circulates a report of a present, past, or future bombing, fire, offense, or other emergency that he or she knows is false or baseless and that would ordinarily:

- Cause action by an official or volunteer agency organized to deal with emergencies;
- Place a person in fear of imminent serious bodily injury; or
- Prevent or interrupt the occupation of a building, room, or place of assembly.

Firearm is defined by federal law (18 U.S.C. 921(a)) as:

- Any weapon (including a starter gun) that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive;
- The frame or receiver of any such weapon;
- Any firearm muffler or firearm weapon; or
- Any destructive device, such as any explosive, incendiary or poison gas bomb, or grenade.

Such term does not include an antique firearm.

Firearm silencer is defined by Penal Code 46.01 as any device designed, made, or adapted to muffle the report of a firearm.

Graffiti includes markings with paint, an indelible pen or marker, or an etching or engraving device on tangible property without the effective consent of the owner. The markings may include inscriptions, slogans, drawings, or paintings.

Handgun is defined by Penal Code 46.01 as any firearm that is designed, made, or adapted to be fired with one hand.

Harassment includes:

- Conduct that meets the definition established in district policies DIA(LOCAL) and FFH(LOCAL);
- Conduct that threatens to cause harm or bodily injury to another person, including a district student, employee, board member, or volunteer; is sexually intimidating; causes physical damage to the property of another student; subjects another student to physical confinement or restraint; or maliciously and substantially harms another student's physical or emotional health or safety, as defined in Section 37.001(b)(2) of the Education Code; or
- Conduct that is punishable as a crime under Penal Code 42.07, including the following types of conduct if carried out with the internet to harass, annoy, alarm, abuse, torment, or embarrass another:
 - Initiating communication and, in the course of the communication, making a comment, request, suggestion, or proposal that is obscene, as defined by law;
 - Threatening, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property;
 - Conveying, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury; and
 - Sending repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another.
 - Making obscene, intimidating, or threatening telephone calls or other electronic communications from a temporary or disposable telephone number provided by an internet application or other technological means.

Hazing is defined by Section 37.151 of the Education Code as an intentional, knowing, or reckless act, on or off campus, by one person alone or acting with others, directed against a student for the purpose of pledging, initiation into, affiliation with, holding office in, or maintaining membership in a student organization if the act meets the elements in Education Code 37.151, including:

- Any type of physical brutality;
- An activity that subjects the student to an unreasonable risk of harm or that adversely affects the student's mental or physical health, such as sleep deprivation, exposure to the elements, confinement to small spaces, calisthenics, or consumption of food, liquids, drugs, or other substances;
- An activity that induces, causes, or requires the student to perform a duty or task that violates the Penal Code; and
- Coercing a student to consume a drug or alcoholic beverage in an amount that would lead a reasonable person to believe the student is intoxicated.

Hit list is defined in Section 37.001(b)(3) of the Education Code as a list of people targeted to be harmed, using a firearm, a knife, or any other object to be used with intent to cause bodily harm.

Improvised explosive device is defined by Penal Code 46.01 as a completed and operational bomb designed to cause serious bodily injury, death, or substantial

property damage that is fabricated in an improvised manner using nonmilitary components.

Indecent exposure is defined by Penal Code 21.08 as an offense that occurs when a person exposes the person's anus or any part of the person's genitals with intent to arouse or gratify the sexual desire of any person, and is reckless about whether another is present who will be offended or alarmed by the act.

Intimate visual material is defined by Civil Practices and Remedies Code 98B.001 and Penal Code 21.16 as visual material that depicts a person with the person's intimate parts exposed or engaged in sexual conduct. "Visual material" means any film, photograph, video tape, negative, or slide of any photographic reproduction or any other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen.

Location-restricted knife is defined by Penal Code 46.01 as a knife with a blade over five and one-half inches.

Knuckles means any instrument consisting of finger rings or guards made of a hard substance and designed or adapted for inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles.

Look-alike weapon means an item that resembles a weapon but is not intended to be used to cause serious bodily injury.

Machine gun as defined by Penal Code 46.01 is any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.

Mandatory means that something is obligatory or required because of an authority.

Paraphernalia are devices that can be used for inhaling, ingesting, injecting, or otherwise introducing a controlled substance into a human body.

Possession means to have an item on one's person or in one's personal property, including, but not limited to, clothing, purse, or backpack; a private vehicle used for transportation to or from school or school-related activities, including, but not limited, to an automobile, truck, motorcycle, or bicycle; telecommunications or electronic devices; or any school property used by the student, including, but not limited to, a locker or desk.

Prohibited weapon under Penal Code 46.05(a) means:

- The following items unless registered with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives or otherwise not subject to that registration requirement or unless the item is classified as a curio or relic by the U.S.

Department of Justice:

- An explosive weapon;
- A machine gun;
- A short-barrel firearm;
- Armor-piercing ammunition;
- A chemical dispensing device;
- A zip gun;
- A tire deflation device;
- An improvised explosive device; or
- A firearm silencer, unless classified as a curio or relic by the U.S. Department of Justice or the actor otherwise possesses, manufactures, transports, repairs, or sells the firearm silencer in compliance with federal law.

Public Lewdness is defined by Penal Code 21.07 as an offense that occurs when a person knowingly engages in an act of sexual intercourse, deviate sexual intercourse, or sexual contact in a public place or, if not in a public place, is reckless about whether another is present who will be offended or alarmed by the act.

Public school fraternity, sorority, secret society, or gang means an organization composed wholly or in part of students that seeks to perpetuate itself by taking additional members from the students enrolled in school based on a decision of its membership rather than on the free choice of a qualified student. Educational organizations listed in Section 37.121(d) of the Education Code are excepted from this definition.

Reasonable belief is that which an ordinary person of average intelligence and sound mind would believe Chapter 37 requires certain disciplinary decisions when the superintendent or designee has a reasonable belief that a student engaged in conduct punishable as a felony offense. Informing such a reasonable belief, the superintendent or designee may use all available information, including the notice of a student's arrest under Article 15.27 of the Code of Criminal Procedure.

Self-defense is the use of force against another to the degree a person reasonably believes the force is immediately necessary to protect himself or herself.

Serious misbehavior means:

- Deliberate violent behavior that poses a direct threat to the health or safety of others;
- Extortion, meaning the gaining of money or other property by force or threat;
- Conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or
- 4. Conduct that constitutes the offense of:
 - Public lewdness under Penal Code 21.07;
 - Indecent exposure under Penal Code 21.08;
 - Criminal mischief under Penal Code 28.03;
 - Hazing under Education Code 37.152; or
 - Harassment under Penal Code 42.07(a)(1) of a student or district

employee.

Serious or persistent misbehavior includes, but is not limited to:

- Behavior that is grounds for permissible expulsion or mandatory DAEP placement.
- Behavior identified by the district as grounds for discretionary DAEP placement.
- Actions or demonstrations that substantially disrupt or materially interfere with school activities.
- Refusal to attempt or complete school work as assigned.
- Insubordination.
- Profanity, vulgar language, or obscene gestures.
- Leaving school grounds without permission.
- Falsification of records, passes, or other school-related documents.
- Refusal to accept discipline assigned by the teacher or principal.

Short-barrel firearm is defined by Penal Code 46.01 as a rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches.

Terroristic threat is defined by Penal Code 22.07 as a threat of violence to any person or property with intent to:

- Cause a reaction of any type by an official or volunteer agency organized to deal with emergencies;
- Place any person in fear of imminent serious bodily injury;
- Prevent or interrupt the occupation or use of a building; room, place of assembly, or place to which the public has access; place of employment or occupation; aircraft, automobile, or other form of conveyance; or other public place;
- Cause impairment or interruption of public communications; public transportation; public water, gas, or power supply; or other public service;
- Place the public or a substantial group of the public in fear of serious bodily injury; or
- Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state (including the district).

Tire deflation device is defined in part by Penal Code 46.01 as a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires.

Title 5 felonies are those crimes listed in Title 5 of the Penal Code that typically involve injury to a person and may include:

- Murder, manslaughter, or homicide under Sections 19.02, – .05;
- Kidnapping under Section 20.03;

- Trafficking of persons under Section 20A.02;
- Smuggling or continuous smuggling of persons under Sections 20.05 – .06;
- Assault under Section 22.01;
- Aggravated assault under Section 22.02;
- Sexual assault under Section 22.011;
- Aggravated sexual assault under Section 22.021;
- Unlawful restraint under Section 20.02;
- Continuous sexual abuse of a young child or children under Section 21.02;
- Bestiality under Section 21.09;
- Improper relationship between educator and student under Section 21.12;
- Voyeurism under Section 21.17;
- Indecency with a child under Section 21.11;
- Invasive visual recording under Section 21.15;
- Disclosure or promotion of intimate visual material under Section 21.16;
- Sexual coercion under Section 21.18;
- Injury to a child, an elderly person, or a disabled person of any age under Section 22.04;
- Abandoning or endangering a child under Section 22.041;
- Deadly conduct under Section 22.05;
- Terroristic threat under Section 22.07;
- Aiding a person to commit suicide under Section 22.08; and
- Tampering with a consumer product under Section 22.

[See FOC(EXHIBIT).]

Under the influence means lacking the normal use of mental or physical faculties. Impairment of a person’s physical or mental faculties may be evidenced by a pattern of abnormal or erratic behavior, the presence of physical symptoms of drug or alcohol use, or by admission. A student “under the influence” need not be legally intoxicated to trigger disciplinary action.

Use means voluntarily introducing into one’s body, by any means, a prohibited substance.

Zip gun is defined by Penal Code 46.01 as a device or combination of devices, not originally a firearm, but adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance.



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Anthony Sorola, Associate Superintendent of Athletics, Human Capital, and Operations

SUBJECT: DISCUSSION AND REQUEST FOR APPROVAL TO DELEGATE HIRING AUTHORITY TO THE SUPERINTENDENT FOR CONTRACTUAL PERSONNEL STIPULATED IN POLICY DC (LOCAL) THROUGH THE END OF AUGUST 2024

DATE: June 18, 2024

Due to the need to hire principals, executive directors, and above, between board meetings during the months of June, July, and August, the Superintendent is requesting approval to employ these contractual positions during this time period. Employees hired under this provision would be reported at the next regular Board meeting.

Administrative Recommendation:

Approval to Delegate Hiring Authority to the Superintendent for Contractual Personnel Stipulated in Policy DC (LOCAL) through the end of August 2024



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Alicia Syverson, Associate Superintendent of Student and School Support

SUBJECT: **DISCUSSION OF AND REQUEST FOR APPROVAL OF RESOLUTION TO LEASE OR ALLOW FOR A PURPOSE OTHER THAN A DISTRICT PURPOSE OF ANY UNUSED OR UNDERUSED DISTRICT FACILITY**

DATE: June 18, 2024

Recommendation to approve the resolution as part of the requirements set forth in Texas Education Code §11.154 for Ector County ISD Board of Trustees to lease or allow a portion of Travis Elementary for use for a purpose other than a district purpose.

Administrative Recommendation:

Approval of Resolution.

**RESOLUTION OF THE BOARD OF TRUSTEES OF
ECTOR COUNTY INDEPENDENT SCHOOL
DISTRICT**

WHEREAS, the Board of Trustees (“Board”) of the Ector County Independent School District (“District”) is authorized by Texas Education Code § 11.151 to govern and oversee the management of the public schools and in the name of the District to acquire and hold real and personal property; and

WHEREAS, the Board is authorized by Texas Education Code § 11.1542 and Texas common law to lease or allow use for a purpose other than a district purpose of an unused or underused District facility; and

WHEREAS, the Board previously determined in an open public meeting that it currently does not have a need to use Travis elementary school campus (the “Facility”) and decided to temporarily repurpose this Facility; and

WHEREAS, the Board finds a need exists for a high-quality childcare provider for the Ector County community; and

WHEREAS, pursuant to Texas Education Code § 11.1542, the Board is required to give each open-enrollment charter school located wholly or partly within the boundaries of the District the opportunity to make an offer to purchase, lease, or use the facility, as applicable, in response to any terms established by the Board, before offering the facility for sale or lease or to any other specific entity for a purpose other than a district purpose; and

WHEREAS, pursuant to Texas Education Code § 11.1542(b), the Board is not required to accept an offer made by an open-enrollment charter school.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT:

RESOLVED, the Board of Trustees hereby would like to offer a portion of the Facility, specifically 12 designated classrooms, to a high-quality childcare provider in Texas, for an indefinite term until such time as in the Board’s determination the Board has a need to regain full use of the campus for the District’s operations.

RESOLVED, this Resolution serves as a formal notice to all open-enrollment charter schools located wholly or partly within the boundaries of the District the opportunity to make an offer to lease the Facility, as applicable, in response to any terms established by the Board.

RESOLVED, the Board of Trustees hereby (1) determines that a potential future lease of the Facility for high-quality childcare services will serve a public purpose, (2) retains sufficient control over the leased portion of the Facility to ensure a public purpose is served, and (3) is confident the District will receive a return benefit.

RESOLVED, the Board delegates to the Superintendent or designee the authority to negotiate the specific terms of the lease, including rent and other material terms;

PASSED AND APPROVED this 18th day of June, 2024 by the Board of Trustees for the Ector County Independent School District.

By: _____
Chris Stanley, Board President

Attest: _____
Tammy Hawkins, Board Secretary



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Anthony Sorola, Associate Superintendent of Athletics, Human Capital, and Operations

SUBJECT: **DISCUSSION OF AND REQUEST FOR APPROVAL OF SCHOOL DISTRICT FACILITIES CONSTRUCTION DELIVERY METHOD FOR INSURANCE RELATED CONSTRUCTION AT AUSTIN ELEMENTARY SCHOOL**

DATE: June 18, 2024

It is the recommendation of the administration that the Board of Trustees approve the School District facilities construction delivery method for insurance related construction at Austin Elementary School.

Administrative Recommendation:

Approval of the School District facilities construction delivery method for insurance related construction at Austin Elementary School.



Methods of Procurement/Delivery

- [Competitive Sealed Proposal](#)
 - A delivery method by which a district requests proposals, ranks offerors, negotiates, and then contracts with a general contractor for the construction, rehabilitation, alteration, or repair of a facility.
 - Formal Request for Proposal- **RFP goes beyond just the pricing** factor and instead focuses on evaluating needs, expectations, and desired outcomes through a detailed response that comprehensively addresses the district's needs and provides the **Best Value** to the district.
- [Constructions Manage- At-Risk](#)
 - A delivery method by which a district contracts with a Construction Manager-At-Risk to provide consultation or administrative services during the design and construction phase and to manage multiple contracts with various construction prime contractors, coordinates all subcontractor work, simplifying the process and reducing the risk for the owner.
 - Before the design phase is complete, the **Construction Manager-At-Risk estimates the construction cost and provides a Guaranteed Maximum Price (GMP). If the project exceeds the Guaranteed Maximum Price, the Construction Manager-At-Risk's company will be financially responsible, putting the Construction Manager "at risk".**

Program Management Service

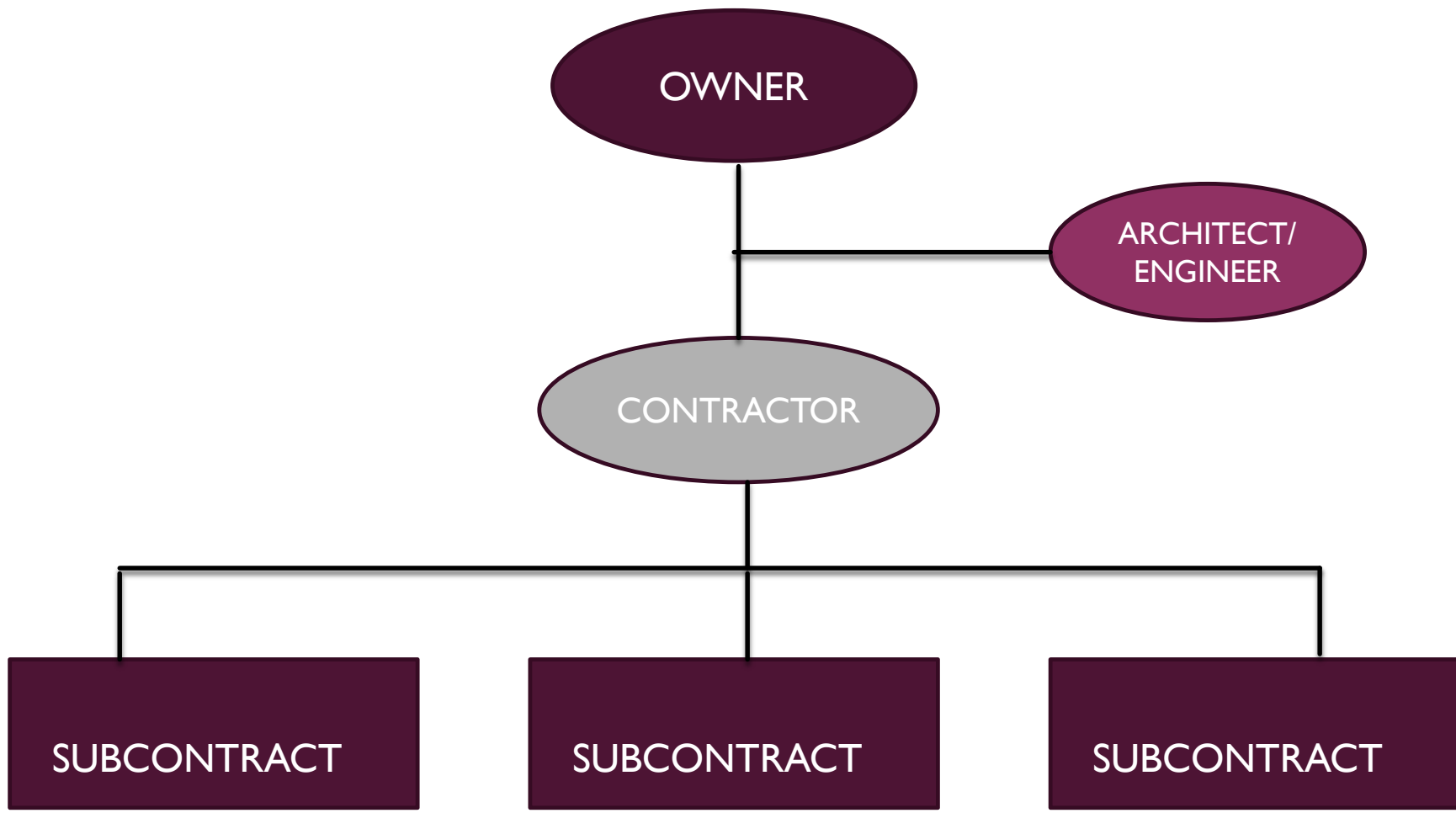
- [Program Management Service](#)
 - Will have oversight on design and construction
 - Implements cost-saving strategies into the construction project
 - Constructability review and validates cost estimates
 - Reviews all invoices for accuracy and compares them against the contracts
 - Ensures communication between contractors, consultants, and statutory entities and assists owner in understanding the process and progress of the project.
 - Develops processes and procedures to ensure standardization throughout the Bond program.
 - Oversees all on and off-site construction with building and safety regulations applying industry codes and standards.

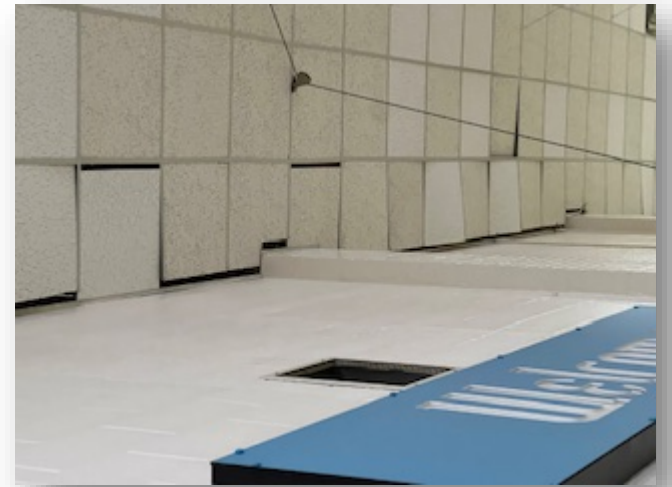
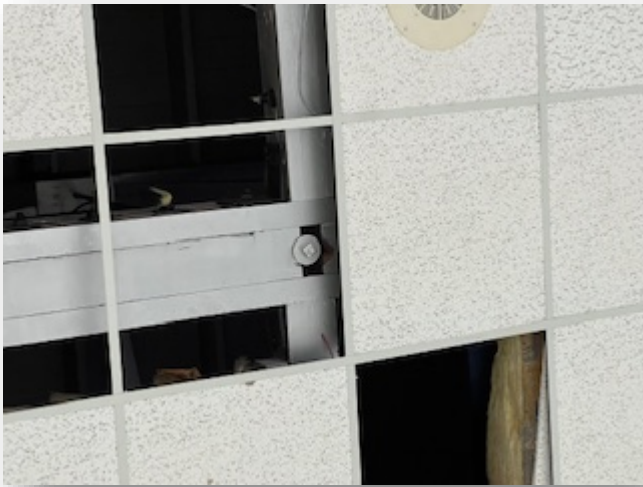
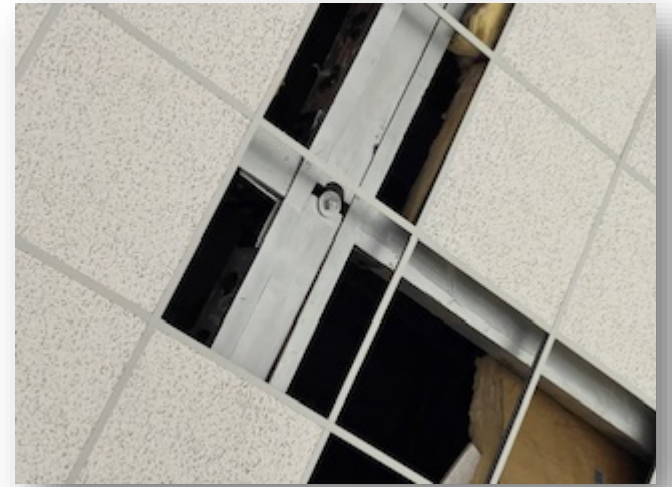
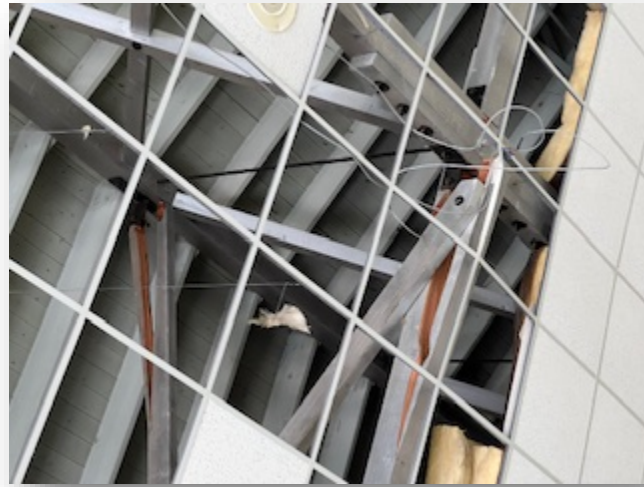
COMPETITIVE SEALED PROPOSAL (CSP)

- Competitive sealed proposal under Chapter 2269 is a procurement method by which a district requests proposals, ranks the offerors, negotiates, and then contract with a general contractor for the construction, rehabilitation, alteration, or repair of a facility. The district must select or designate an architect or engineer to prepare the construction documents. To award a construction contract by competitive sealed proposals, a district must satisfy several requirements:
 1. Prepare a request that includes construction documents, selection criteria and the weighted value for each criterion, estimated budget, project scope, estimated project completion date, and other information that a contractor may need to respond to the request;
 2. Receive, publicly open, and read aloud the names of the offerors and any monetary proposals;

COMPETITIVE SEALED PROPOSAL (CSP)

3. Evaluate and rank each proposal in relation to the published criteria not later than the 45th day after the proposals are opened;
4. Select the offeror that submits the proposal that offers the **Best Value** for the district **based on the published criteria, the weighted value, and the ranking evaluation**. The district first attempts to negotiate a contract with the selected offeror. If the district is unable to negotiations with the offeror and proceeds to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.
5. Make the evaluations, including any scores, public and provide them to all offerors no later than the 7th business day after the contract is awarded.







Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Anthony Sorola, Associate Superintendent of Athletics, Human Capital, and Operations

SUBJECT: **DISCUSSION OF AND REQUEST FOR APPROVAL OF ARCHITECT CONTRACT FOR INSURANCE RELATED CONSTRUCTION BETWEEN ECISD AND PARKHILL AT AUSTIN ELEMENTARY**

DATE: June 18, 2024

It is the recommendation of the administration that the Board of Trustees approve the Architect Contract for insurance related construction between ECISD and Parkhill at Austin Elementary.

Administrative Recommendation:

Approval of the Architect Contract for insurance related construction between ECISD and Parkhill at Austin Elementary.



AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Eighteenth day of June in the year Two Thousand Twenty Four

(In words, indicate day, month and year.)

BETWEEN the Architect’s client identified as the Owner:
(Name, legal status, address and other information)

Ector County Independent School District
802 N. Sam Houston
Odessa, Texas 79761
Phone: (432) 456-0000

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

Parkhill
1700 W. Wall, Suite 100
Midland, Texas 79701
Phone: (432) 697-1447
Fax: (432) 697-9758

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

Austin Montessori Magnet Renovations 2024
200 West 9th Street
Odessa, Texas 79761

The Owner and Architect agree as follows.

WHEREAS Ector County Independent School District (hereinafter referred to as "Owner") and Parkhill (hereinafter referred to as "Architect") desire to enter into a contract under which Architect will perform construction services relating the above-referenced Projects on behalf of Owner;

WHEREAS Owner and Architect have agreed to enter into AIA Document B101™-2017 Contract ("Contract") as the basic form for that contract; and

WHEREAS certain terms and conditions of the contract must be modified to comply with applicable laws and policies affecting Owner and Architect on this project, Owner and Architect hereby agree to the following amendments to the Contract:

ADDITIONS AND DELETIONS:

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

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

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

The Architect will work with the Owner to develop the project program in accordance with established standards and scope.

§ 1.1.2 The Project's physical characteristics:

(Paragraph deleted)

The project will consist of demolition of damaged walls and structure to the cafeteria and the replacement of those components as needed to return space to full function.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

Estimated \$1,700,000.00

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Commencement: 7-1-2024

.2 Construction commencement date:

November 2024 Tentative

.3 Substantial Completion date or dates:

June 2025 Tentative

.4 Other milestone dates:

TBD

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Competitive Sealed Proposals

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

None

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Dr. Scott Muri, Superintendent or his designee
Ector County Independent School District
802 N. Sam Houston
Odessa, Texas 79762
Phone: (432) 456-0000

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

§ 1.1.9 The Owner may retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical
(Paragraphs deleted)
Engineer (if needed): To be identified by Owner at a later date.

(Paragraphs deleted)
.2 Other, if any:

Init.

Surveyor: TBD

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

John Ogomo, AIA. Project Manager
1700 W. Wall St.
Midland, Texas 79701
Phone: 972.987.1670

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2 and shall select such consultants based on the qualification-based selection process established in Texas Government Code, Chapter 2254.:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Parkhill
1700 W. Wall St.
Midland, Texas 79701

.2 Mechanical Engineer:

Parkhill
1700 W. Wall St.
Midland, Texas 79701

.3 Electrical Engineer:

Parkhill
1700 W. Wall St.
Midland, Texas 79701

Consultants not governed by Texas Occupations Code Chapter 1001 shall be licensed or registered as required by applicable law.

§ 1.1.11.2 Consultants retained under Supplemental Services:

Surveyor: TBD

§ 1.1.12 Other Initial Information on which the Agreement is based:

Whenever a statute, regulation, or code is cited in this Agreement, it shall refer to that statute, regulation, or code or its successor at the time the Agreement is signed or, a revised statute, regulation, or code if it becomes effective at a later time and compliance is required for completion and approval of the Project.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties may agree in writing upon protocols, governing the transmission and use of Construction Documents or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

(Paragraph deleted)

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect shall provide professional services as set forth in this Agreement. The Architect shall also comply with all provisions in Texas Administrative Code, Title 19 Section 61.1040, pertaining to services and actions required of the Architect. Architect, prior to signing this Agreement and submitting it to the Owner, shall comply with the provisions of Texas Government Code Section 2252.908, requiring a Disclosure of Interested Parties filed with the Texas Ethics Commission. Architect certifies that Architect is a registered professional architect or engineer licensed to practice in the State of Texas. Pursuant to the Texas Occupations Code, any civil, structural, mechanical, or electrical plans, specifications, or opinions of probable cost for construction must be prepared by a registered professional engineer or a registered architect, whichever is appropriate, and who is licensed to practice in the State of Texas. Architect agrees to notify Owner should Architect's registration status change. Architect certifies that Architect and Architect's employees and agents are eligible to work under federal, state and local immigration laws and regulations.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances and as expeditiously as is prudent considering the ordinary professional skill and care of a competent architect, as set out in Texas Local Government Code Section 271.904(d) and Texas Civil Practice and Remedies Code Section 130.002, hereinafter referred to as the "Standard of Care." The Architect shall further, and to the extent required by 19 Texas Administrative Code Section 61.140, provide all certifications required by Section 61.140(f), and otherwise perform its services and obligations required of it by applicable laws, codes, and ordinances in accordance with the Standard of Care. Owner's approval, acceptance, use of, or payment for all or any of Architect's services shall in no way alter Architect's obligations or Owner's rights hereunder.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The identified Architect shall be the prime design professional for the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 Prior to performing Architect's services under this Agreement, Architect shall procure, maintain and provide insurance certificates, policies and endorsements, in at least the following amounts, to protect Architect and Owner from claims arising out of the performance of the Architect's services under this Agreement and caused by any error, omission, negligent act or omission, or design defect by Architect, such insurance to be in a form approved by the Owner, with an effective date prior to the beginning date of design. Such insurance shall be written on an occurrence basis, if available, and on a claims-made basis, if occurrence basis insurance is not available. Architect shall maintain its insurance in full force and effect and uninterrupted during the term of this Agreement and after the completion of services under this Agreement until the completion of any applicable statute of limitations, such period to be not less than one year from Final Completion of all construction of this Project as to workers compensation, two years from the Final Completion of all construction of this Project as to commercial general liability, and comprehensive automobile liability, and not less than eight years from the Substantial Completion of all construction of this Project (or ten years, as allowed by Texas Civil Practice and Remedies Code § 16.008), as to errors and omissions insurance. Architect shall furnish to Owner insurance certificates, policies and endorsements upon request at any time. Architect shall name Owner as an additional insured under his policies for commercial general liability and comprehensive automotive liability. All insurance required herein shall be obtained from a company licensed to do business in the State of Texas by the Texas Department of Insurance, and shall be underwritten by a company rated not less than A-X in A.M. Best's Key Rating Guide, Property-Casualty, according to the latest posted ratings available on A.M. Best's website, www.ambest.com, and that permits waivers of subrogation. Deductibles or self-insured retention limits for all policies (except Architect's Errors or Omissions insurance) shall not exceed \$25,000 for a project budgeted at \$4 million or less, or \$50,000 for a project budgeted at more than \$4 million. The policies shall include a waiver of subrogation in favor of the Owner. Any deviation from these requirements can only be approved by Owner's Board of Trustees. To

the extent that Architect is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Architect shall provide written notice to Owner's Board of Trustees. Any nonconformity may be grounds for termination or modification of the Contract. Such policies shall be primary and non-contributory. The limits of liability for such insurance shall be in at least the following amounts:

(Paragraphs deleted)

§ 2.5.1 Workers' Compensation

- .1 State: Statutory Benefits
- .2 Employer's Liability: \$1,000,000 per accident
\$1,000,000 disease, policy limit
\$1,000,000 disease, each employee

§ 2.5.2 Commercial General Liability with policy limits of not less than the following amounts

- .1 Each occurrence: \$ 1,000,000.00 each occurrence
\$ 2,000,000.00 aggregate
- .2 Medical Expense (per person) \$ 10,000 each occurrence
- .3 Products & Completed Operations: \$ 2,000,000 aggregate (to be maintained for a period of two years after Final Payment; Contractor shall continue to provide evidence of such coverage to Owner on an annual basis during this period and Owner shall be named by endorsement as an Additional Insured for such coverage)
- .4 Personal & Advertising Injury \$ 1,000,000 aggregate
- .5 Must include explosion, collapse, and underground (X, C, and U) coverage
- .6 Must include Completed Operations coverage
- .7 Must Include Contractual Liability Coverage
- .8 Must Include General Aggregate Per Project Endorsement.

§ 2.5.3 Contractual Liability:

- .1 Property Damage shall be included in Commercial General Liability Coverage.
- .2 Insurance sufficient to cover Architect's contractual indemnities.

§ 2.5.4 Business Automobile Liability (including owned, non-owned, hired, or any other vehicles):

- .1 Combined single limit policy in the amount of at least \$1,000,000 for Bodily Injury and Property – Each Accident.

§ 2.5.5 Professional Liability (E&O) Coverage in at least in the following amounts:

- \$ 5,000,000.00 per claim
- \$ 7,000,000.00 per annual aggregate

Deductibles or self-insured retention amounts shall not exceed \$25,000 for a project budgeted at \$4 million or less, or \$50,000 for a project budgeted at more than \$4 million.

- .1 Architectural and engineering consultants shall carry Professional Liability (errors and omissions) insurance in an amount not less than Two Million Dollars in the aggregate (\$ 2,000,000.00).

§ 2.5.6 Umbrella Excess Liability coverages shall be:

- .1 \$ 1,000,000.00 each occurrence
- .2 \$ 2,000,000.00 aggregate
- .3 \$ 2,000,000.00 aggregate Per Project Endorsement

§ 2.5.7 Texas Workers Compensation Insurance. Because Architect will be performing services on-site, a copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance (TDI), or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the Architect or his employees providing services on a Project is required for the duration of the Project.

28 TAC § 110.110(i).

- .1 Duration of the Project includes the time from the beginning of the Work on the Project until the Architect's Work on the Project has been completed and accepted by the Owner.
- .2 Persons providing services on the Project include all persons or entities performing all or part of the services the Architect has undertaken to perform on the Project, regardless of whether that person contracted directly with the Architect and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the Project.
- .3 Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to the Project. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- .4 The Architect shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code § 401.011(44) for all employees of the Architect providing services on the Project for the duration of the Project.
- .5 The Architect must provide a certificate of coverage to the Owner prior to being awarded the contract.
- .6 If the coverage period shown on the Architect's current certificate of coverage ends during the duration of the Project, the Architect must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.
- .7 The Architect shall obtain from each person providing services on a project, and provide to the Owner:
 - .1 A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
 - .2 No later than seven days after receipt by the Architect, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

- .8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.
- .9 The Architect shall notify the Owner in writing by certified mail or personal delivery, within ten days after the Architect knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.
- .10 The Architect shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- .11 The Architect shall contractually require each person with whom it contracts to provide services on a project, to:
- .1 Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code § 401.011(44) for all of its employees providing services on the Project for the duration of the Project;
 - .2 Provide to the Architect, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;
 - .3 Provide the Architect, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
 - .4 Obtain from each other person with whom it contracts, and provide to the Architect:
 - .1 A certificate of coverage, prior to the other person beginning work on the Project; and
 - .2 A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
 - .5 Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;
 - .6 Notify the Owner in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage for any person providing services on the Project; and
 - .7 Contractually require each person with whom it contracts to perform as required by items 1-7, with the certificates of coverage to be provided to the person for whom they are providing services.
- .12 By signing this contract or providing or causing to be provided a certificate of coverage, the Architect is representing to the Owner that all employees of the Architect who will provide services on the Project will be covered by workers' compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Architect to administrative penalties, criminal penalties, civil penalties, or other civil actions.

- .13 The Architect's failure to comply with any of these provisions is a breach of contract by the Architect that entitles the Owner to declare the contract void if the Architect does not remedy the breach within ten days after receipt of notice of breach from the Owner.
- .14 The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 Architect, prior to signing this Agreement and submitting it to the Owner, shall comply with the provisions of Texas Government Code Section 2252.908, requiring a Disclosure of Interested Parties filed with the Texas Ethics Commission. The Architect's Basic Services consist of those described in Article 3 and Section 4.1 and include usual and customary architectural services, structural, mechanical, plumbing and electrical engineering services; landscape design; architectural interior design; audio-visual, data, and telecommunications and technology design and distribution; kitchen and food service equipment design; acoustical engineering and design; site feasibility design; programming for new schools and/or scope of work verification for renovations of existing schools; security planning services; graphics/way-finding planning services; roofing consultant services unless otherwise approved by Owner; accessibility services; estimating by the Architect's independent estimating consultant; record drawings; professional renderings; design and construction data base management; Texas Commission on Environmental Quality compliance services, if appropriate; and internal auditing and accounting services necessary for Architect to fulfill Architect's responsibilities under this Agreement and as necessary to complete the Project. Architect shall provide all plans and specifications for all on-site development necessary for the Project, which shall include locating any building on-site, and developing all plans and specifications for site drainage, parking, landscaping, walkways, irrigation, playgrounds, staging areas when appropriate, portable buildings and accompanying infrastructure if applicable. The District will not waive any services recommended by the Architect that are required by law.

Architect certifies that Architect is a registered professional architect or engineer licensed to practice in the State of Texas. Pursuant to the Texas Occupations Code, any civil, structural, mechanical, or electrical plans, specifications, or opinions of probable cost for construction must be prepared by a registered professional engineer or a registered architect, whichever is appropriate, and who is licensed to practice in the State of Texas. Architect agrees to notify Owner should Architect's registration status change. Architect certifies that Architect and Architect's employees and agents are eligible to work under federal, state and local immigration laws and regulations. Services not set forth in Article 3 and Section 4.1 are Additional Services.

§ 3.1.1 The Architect shall perform and manage the Architect's services and administer the Project, in accordance with this Agreement as amended for this Project, and with the AIA Document A201-2017, General Conditions of the Contract for Construction, as amended for this Project, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner through the issuance of progress reports to Owner and Contractor, as more specifically defined hereafter. The Architect shall not be relieved of any obligation to perform in accordance with the standard of care applicable to licensed architects in the State of Texas under the same or similar circumstances, regardless of whether or not a specific responsibility or task is included or identified in this Agreement.

- .1 Upon request of the Owner's representative, the Architect shall make presentations to Owner's representatives to review the design of the Project. In addition, upon request of the Owner's representative, the Architect shall make monthly presentations to Owner's Board of Trustees.
- .2 The Architect shall submit design documents to the Owner at intervals appropriate to the design process as designated in this Agreement, as amended, for purposes of evaluation and approval by the Owner's Board of Trustees or the Board's designee, as specified herein. The Architect shall be entitled to rely on approvals received from the Owner's Board of Trustees or the Board's designee in the further

development of the design, provided that nothing herein shall relieve Architect of responsibility or liability for its failure to provide its services in accordance with the Standard of Care.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants in accordance with 19 TAC Section 61.140. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. Architect shall also promptly respond in writing to notices from Owner regarding Owner's discovery of errors, omissions, or inconsistencies, and, if requested, shall promptly meet with Owner regarding same. Owner's notice or lack of notice shall not relieve Architect of any responsibility or liability for performance of Architect's contracted services.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services including the dates of Architect's design services and the completion of documentation required of the Architect. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion and Final Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's and Contractor's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. The schedule shall also include commencement of construction, timed sufficiently to achieve Owner's proposed dates of Substantial Completion and Final Completion as stated in this Agreement, as amended, and within Owner's budget. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect. With the Owner's prior written approval for reasonable cause, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction. If Contractor is a Construction Manager-at-Risk, then the Architect shall reasonably cooperate with the Construction Manager-at-Risk in the preparation and periodic update of the Project schedule.

- .1 Architect shall also review and search all building codes applicable to the Project, and shall reasonably comply with all applicable codes in the design and construction of the Project, as required by 19 TAC § 61.1040(e)(5)(C), and (j)(1) and (2), including without limitation, design of storm shelters, and use of a third-party code compliance officer where code compliance will not be enforced by a state or local authority having jurisdiction ("building code official"). Architect shall coordinate and prepare a proposed statement of any special inspections or testing required in accordance with the required construction codes, customizing the proposed statement based on knowledge about the project regardless of whether the statement requires testing and inspection to be less than the default requirements of the required construction codes, including materials testing, project-specific requirements for special inspections and testing, specific wind and seismic requirements, frequency of the special inspections, or tests to be performed in accordance with the referenced standard defining the inspection. 19 TAC Section 61.1040(e)(6)(D). Architect shall ensure that the Construction Documents are of sufficient clarity to indicate the timing, location, nature, and extent of specific inspections and tests required to be performed by the Owner through the local authority having jurisdiction, the third-party code compliance officer, any third-party special inspector or inspection agency, or the Architect if qualified as a special inspector and specified as a contractual term. 19 TAC Section 61.1040(e)(6)(E). A building permit issued by a local authority having jurisdiction or a third-party code compliance officer shall be considered by the Owner to indicate that the proposed statement of special inspections is approved and constitutes the code-required inspections and tests. 19 TAC Section 61.1040(e)(6)(F). The Contractor, before beginning construction, shall submit to the Owner, Architect, and the building code official or third-party code compliance officer an acknowledgement of the Contractor's responsibility to notify quality assurance personnel that will be performing inspections and tests when the Project is ready for those specific inspections and tests and the Contractor's responsibility to request and obtain a final report from each quality control person performing the code-required inspections and tests before requesting a certificate of occupancy. 19 TAC Section 61.1040(e)(6)(G). Third-party inspectors who perform the code-required inspections and tests shall submit inspection and testing reports to the Owner and the Architect, and shall submit a final report to the Owner, Architect, building code official or third-party code compliance officer, and Contractor, upon request by the Contractor, indicating any known deficiencies discovered during the Project that have not yet been addressed at the time of the request. 19 TAC Section 61.1040(e)(6)(H). Special inspections and

testing reports shall be submitted to the building code official and the Architect, and any discrepancies shall be brought to the attention of the Contractor, and if not corrected, to the attention of the building code official, the Architect, and the Owner. 19 TAC Section 61.1040(e)(6)(I). The Architect shall comply with 19 TAC Section 61.1040(j) and (k) in the design of this Project.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval. The Architect shall review, and be responsible for compliance with, laws, codes, and regulations applicable to the Architect's services, including, without limitation, school facility standards found in 19 TAC Section 61.1040, and Texas Health and Safety Code Chapter 341, in accordance with the Standard of Care. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project. The Architect shall comply with all policies, regulations and rules of the Owner, including, but not limited to, those related to employee conduct (such as prohibitions against alcohol, weapons, drugs, fraternization, harassment, and tobacco on school property), and fraud and financial impropriety. Architect shall certify that he has reviewed the standards contained in 19 TAC Section 61.1040, and used reasonable care in accordance with the Standard of Care. Architect shall also certify that the Construction Documents are in reasonable accordance with the provisions of 19 TAC Section 61.1040, except as indicated on the certification. Architect shall perform a building code search under applicable regulations that may influence the Project, and shall certify that the design has been researched before it is final, as required by 19 TAC Section 61.1040. Architect shall also certify that the facilities have been designed according to the provisions of 19 TAC Section 61.1040, based on the educational program, long-range school facility plan, educational specifications, building code specifications, and all documented changes to the Construction Documents provided by the District, as required by 19 TAC Section 61.1040 and shall certify the Project has been designed in reasonable compliance with Owner's long-range facility plan, educational specifications, school facility standards, and facility space as determined by Owner's Qualitative or Quantitative evaluation of compliance for space standards. Architect shall complete the Texas Education Agency's Certification of Project Compliance, located at www.tea.state.tx.us. In executing the certifications required under the provisions of this Section, Architect shall exercise his/her reasonable professional judgment and care consistent with the Standard of Care. Architect shall design the Project in such a manner that the Project or each part of the Project is readily accessible to and usable by individuals with disabilities, in compliance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, federal regulations interpreting the Americans with Disabilities Act and Section 504, Texas Government Code Chapter 469, the Texas Accessibility Standards, all applicable requirements or standards of the Texas Department of Licensing and Regulation, and all applicable requirements or standards of the American National Standards Institute. It shall be the responsibility of Architect to inform all parties of revisions or amendments to applicable codes or standards which become effective prior to the date of issue of applicable building permits. Revisions or amendments to applicable codes or standards which become effective after the issue of applicable building permits shall be noted (including any project additionally required documentation and related project revisions) by the Architect, and shall be compensated as an Additional Service pursuant to Section 4.2.1.2, if applicable to the Project and required for Final Completion.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall comply with applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be the edition of AIA Document A201-2017, as amended for this Project as of the date of this Agreement, and Architect herein agrees to abide by same. Architect agrees that the AIA Document A201-2017 may be subject to subsequent amendments based upon negotiations between Owner, Architect and Contractor. As a condition of further service, Architect shall provide to Owner a signed statement stating Architect's agreement to adhere to any such negotiated amendments which may cause an adjustment in the Architect's compensation and must be mutually agreed upon by the Owner and Architect in writing before proceeding.

§ 3.1.7 The scope of work for this Project:

The project will consists of demolition of damaged walls and structure to the cafeteria and the replacement of those components as needed to return space to full function.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall assist the Owner with the provision of the educational program and educational specifications, which shall be approved by Owner's Board of Trustees, per 19 Texas Administrative Code Section 61.1040. The Architect shall review the program and specifications furnished by Owner to ascertain the specific requirements of the Project and shall arrive at a mutual written understanding of such requirements with Owner. Architect shall include all components of Owner's program in the Project, unless specific written agreement to delete a component is received from Owner.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project, and to ascertain that they are consistent with the requirements of the Project. The Architect shall notify the Owner in writing of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project. The Architect shall visit the Owner's Project site and shall provide to Owner a written report evaluating the feasibility of the Owner's site for the Project based on site conditions, and the Owner's program, schedule and budget for the Cost of the Work. The Architect shall include, in the written report, an identification and evaluation of the location, availability, adequacy, capacity, and sufficiency of all utilities necessary to serve the completed Project. The Architect shall address with the Owner any existing easements or rights-of-way which may interfere with Owner's Project.

§ 3.2.3 The Architect shall present its written preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach a written understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon in writing with the Owner, the Architect shall prepare and present, for the Owner's approval, a written preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design and Owner's schedule and budget for the Work, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall establish the conceptual design of the Project and illustrate the scale and relationship of the Project components. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider and discuss with Owner sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may, but shall not be required to, consider and approve any sustainable design alternatives recommended by Architect so long as such alternatives do not increase the cost of the Work.

§ 3.2.5.2 The Architect shall consider, and, if applicable, consult with the Construction Manager at Risk regarding, the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 When the Project requirements have been sufficiently identified, including Owner's budgetary constraints, programmatic needs, and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities, the Architect, and, if applicable, the Construction Manager at Risk, shall prepare a preliminary opinion of the Cost of the Work prepared in accordance with Section 6.3. This opinion may be based on current area, volume or similar conceptual estimating techniques.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval. Architect shall not proceed to the Design Development Document Phase without the approval of Owner's Board of Trustees, or the Board's designee; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the

Project, and are free from material defects or omissions. Architect shall bear full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without required approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents, shall refine the Project design, and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other elements outlined in this Agreement. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the opinion of the Cost of the Work. As the design process progresses through the end of the preparation of the Construction Documents, the Architect, and if applicable, the Construction Manager at Risk, shall prepare a preliminary opinion of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous opinions of the Cost of the Work indicated by changes in Project requirements or general market conditions. The Architect shall cooperate with the Owner, and if applicable, the Construction Manager at Risk, in developing and designing the Project to satisfy Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of the equipment and facilities. If the Architect's opinion of the Cost of the Work exceeds the Owner's budget, then the Architect shall redesign elements to achieve cost savings within the Scope of the Work, but in doing so, shall not delete any essential element of the Project. Architect shall present the redesign to Owner for Owner's approval as provided in § 3.3.3, and, in doing so, shall notify Owner in writing of the actions taken to bring the Project into Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments, with Owner having the right to approve or reject such recommendations.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the opinion of the Cost of the Work, redesign the Project to comply with Owner's budget, and request the Owner's approval. Architect shall not proceed to the Construction Documents Phase without the approval of Owner's Board of Trustees, or Board's designee; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the Project, and are free from material defects or omissions. Architect shall bear full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without Board, or Board's designee's approval.

§ 3.3.4 The Owner's decisions on matters relating to aesthetic effect shall be final. To the extent that Owner's Contractor or Construction Manager at Risk recommends aesthetic revisions to Owner, Architect shall be consulted.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. "Construction Documents" means: all Drawings, specifications, submittals, transmittals, deliverables, instructions to Contractor, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants which shall set forth in detail the requirements for construction of the Project. The Construction Documents shall reflect all agreements between Owner and Architect concerning Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. Said Construction Documents shall reflect the Owner's educational program and educational specifications, the State educational adequacy standards in 19 TAC Section 61.1040 and the standards set forth in Section 3.1.4 of this Agreement. The Architect shall provide Construction Documents which are sufficient for Owner to complete construction of the Project, are free from material defects or omissions, and comply with all applicable laws, ordinances, codes, rules, and regulations, as of the date of

issuance of Construction Documents. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4. Owner and Owner's authorized representatives shall be given the opportunity to review all Construction Documents prior to release of the Construction Documents for bidding, proposal or negotiation purposes. Architect's bid specifications and any subsequent contract shall not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization. Texas Government Code Section 2269.054. Architect shall also add the following language in any document issued to solicit bids or competitive sealed proposals on the Project:

By submitting a bid or proposal, each bidder or proposer agrees to waive any claims it has or may have against the Owner, the Architect, and their respective employees, agents, or representatives, arising out of or in connection with the administration, evaluation, recommendation, or selection of any bid or proposal; waiver of any requirements under the bid or proposal documents or contract documents; acceptance or rejection of any bid or proposal; and award of the contract.

§ 3.4.1.1 Errors and Omissions.

§ 3.4.1.1.1 Completed plans and specifications are expected to be comprehensive and free of material errors and omissions, except minor discrepancies or other items that can be corrected by minor change at no cost to the Owner, in accordance with the Standard of Care.

§ 3.4.1.1.2 Procedures and meetings in schematic and design development phases allow for adequate interaction between Owner and Architect to minimize oversights in Project requirements. It is incumbent upon the Architect to thoroughly review his work product, in accordance with the Standard of Care, to detect errors and omissions before they become costly additions to the Project during construction.

§ 3.4.1.1.3 Professional services and costs, if any as required to correct errors in construction documents, are the responsibility of the Architect, including addenda during bidding to rectify errors in the contract documents.

§ 3.4.1.1.4 Deductive change orders may be applied to offset the change order cost applicable to the Architect only to the extent that such deductive change order resulted from an oversight in the Contract Documents that was not required by the Building Program or requested by the Owner. All other deductive change orders due to Owner scope modifications or other value engineering items and unused Allowances shall not apply to this offset provision.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents, including, without limitation, school facility standards found in 19 Texas Administrative Code, Subchapter CC, Section 61.1031 and Section 61.1040, and Texas Health and Safety Code Section 341.065. Architect shall certify that he/she has reviewed the standards contained in 19 Texas Administrative Code Section 61.1031 and Section 61.1040, and performed its services in accordance with the Standard of Care in executing the construction documents. Architect shall also certify that the construction documents conform to the provisions of 19 Texas Administrative Code Section 61.1031 and Section 61.1040, except as indicated on the certification. Architect's signature and seal on the construction documents shall certify compliance. Architect shall perform a building code search under applicable regulations that may influence the Project, and shall certify that the design has been researched before it is final, as required by 19 Texas Administrative Code Section 61.1040.

Architect shall also certify that the facilities have been designed and constructed in reasonable accordance with the provisions of 19 Texas Administrative Code Section 61.1031 and Section 61.1040, based on the educational program, long-range school facility plan, educational specifications, building code specifications, any and all required safety and security directions approved by Owner, and all documented changes to the Construction Documents provided by the District, as required by 19 Texas Administrative Code, Section 61.1032 and Section 61.1040. Architect shall complete the Texas Education Agency's (TEA's) Certification of Project Compliance. In executing the certifications required under the provisions of this Section, Architect shall exercise his/her reasonable professional judgment and care consistent with the Standard of Care. Architect shall design the Project in such a manner that the Project or each part of the Project is readily accessible to and usable by individuals with disabilities, in compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, federal regulations interpreting the Americans with Disabilities Act and Section 504, Texas Government Code Chapter 469, the Texas Accessibility

Standards, all applicable requirements or standards of the Texas Department of Licensing and Regulation, and all applicable requirements or standards of the American National Standards Institute. It shall be the responsibility of Architect to make note of and communicate scope of revisions or amendments to applicable codes or standards that become effective prior to issue of applicable building permits. Revisions or amendments to applicable codes or standards which become effective after the issue of applicable building permits shall be addressed by the Architect, and shall be compensated as Additional Service per Section 4.2.1.2.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner and the Owner's attorney in the development and preparation of (1) bidding competitive purchasing, and procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms bidding competitive purchasing, and; (2) the form of agreement between the Owner and Contractor, or Construction Manager at Risk; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) as amended for the Project. After consultation with the Owner, the Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Project Specifications, and may include bidding or proposal requirements and sample forms. As required by law, all bid or proposal documents and contracts shall include, if applicable, all required information related to trench excavation safety. Texas Health and Safety Code Section 756.021 et seq. All outdoor lighting fixtures designed by Architect, if any, shall meet the statutory energy conservation and light pollution standards established by the Texas Department of Health (Texas Government Code Chapter 425). All ventilation and indoor air quality systems designed by Architect shall meet the indoor air quality voluntary guidelines established by the Texas Department of Health. Texas Health and Safety Code Chapter 385. All playground equipment designed by Architect, if any, shall comply with each applicable provision of ASTM Standard F1487-07ae1. "Consumer Safety Performance Specifications for Playground Equipment for Public Use", published by ASTM International, have no unshielded horizontal bare metal platforms; and be accessible to individuals with disabilities in accordance with the Americans with Disabilities Act Accessibility Guidelines. All playground surfacing designed by Architect, if any, shall comply with each applicable provision of ASTM Standard F2223-04e1, "Standard Guide for ASTM Standards on Playground Surfacing" published by ASTM International, and paths shall be designed for accessibility by individuals with disabilities. Texas Health and Safety Code Section 756.061; Americans with Disabilities Act. Architect shall also comply with 15 U.S.C. § 8003 (Drain cover standards) if applicable. If applicable, Architect shall comply with U.S. Environmental Protection Agency rules concerning renovating, repairing, and painting work in schools built before 1978 that involves lead-based paint.

§ 3.4.3.1 As required by law, any bid or proposal document shall contain prevailing wage rates, which Architect may request from the Owner.

§ 3.4.3.2 Architect shall insert in the Project Specifications the requirement that all bonds comply with the requirements of Texas Insurance Code Section 3503.001 et seq. and Texas Government Code Chapter 2253 or their successors and that all insurance companies be licensed to do business in the State of Texas and, if bond amounts exceed \$100,000, hold a certificate of authority from the U.S. Secretary of the Treasury or reinsurance for liability in excess of \$100,000 from a reinsurer authorized and admitted as a reinsurer in the State of Texas and that is a holder of a certificate of authority from the U.S. Secretary of the Treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law. Owner and Architect reserve the right to rely on the Treasury list of companies holding certificates of authority to determine whether the surety or reinsurer complies with the legal requirement.

§ 3.4.4 The Architect shall update the opinion for the Cost of the Work. If the Architect's opinion of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, then the Architect shall redesign elements to achieve cost savings within the Scope of the Work, but in doing so, shall not delete any essential element of the Project. Architect shall present the redesign to Owner for Owner's approval as provided herein, and, in doing so, shall notify Owner in writing of the actions taken to bring the Project into Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality or budget. Owner shall consider Architect's recommendations, but shall decide, in its discretion, what adjustments to make.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the opinion of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. Architect shall not proceed to the Bidding or Negotiation Phase without the approval of Owner's Board of Trustees, or Board designee; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability

to provide documents which are sufficient for Owner to complete the construction of the Project, and are free from material defects or omissions, in accordance with the Standard of Care. Architect shall bear full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without required approval.

§ 3.4.6 The Owner's decisions on matters relating to aesthetic effect shall be final. To the extent that Owner's Contractor or Construction Manager at Risk recommends aesthetic revisions to Owner, Architect shall be consulted.

§ 3.4.7 Architect shall submit the Construction Documents for review and approval to the Texas Department of Licensing and Regulation any time the renovation, modification, or alteration of the Work has an estimated construction cost of \$50,000 or more, and shall notify Owner of same. Architect shall endeavor to not allow Contractor to file an application with any local governmental entity for a building construction permit until after Architect's submission to the Texas Department of Licensing and Regulation.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

If requested by the Owner, the Architect shall assist the Owner in establishing a list of prospective contractors. Such assistance shall include, if necessary, testifying in any bid or proposal dispute. Architect shall disclose in writing to Owner any prior or current relationships which Architect may have had with any bidders or proposers. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction. The Architect shall cooperate with the Owner's legal counsel in the preparation of all Contract Documents and the General Conditions of the Contract for Construction, as amended or supplemented for the Project, to be used in the bidding or proposal documents. Architect shall ensure that its Supplementary or other Conditions of the Contract, if any, shall not contradict the provisions of Owner's AIA Document A201, as amended, except with Owner's prior written consent.

§ 3.5.2 Competitive Bidding or Purchasing

§ 3.5.2.1 If applicable, Bidding Documents shall consist of bidding or competitive proposal requirements and proposed Contract Documents. The Contract Documents are enumerated in the Agreement, as amended, between the Owner and Architect (hereinafter the Owner/Architect Agreement) and consist of the Owner/Architect Agreement, Conditions of the Contract, as amended, (General, Supplementary and other Conditions), all sections of the Project Manual, including Drawings, Specifications, and Addenda issued prior to execution of the Contract.

§ 3.5.2.2 If requested by the Owner, the Architect shall assist the Owner in bidding or competitively purchasing the Project by:

- .1 procuring at Owner's cost the reproduction of Bidding Documents for distribution to prospective bidders, and distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, evaluating the bids, and subsequently documenting, and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 In consultation with the Owner, the Architect shall consider requests for substitutions if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders and Owner. The Architect shall review, in conjunction with the Owner, the Owner's representative, if appropriate, and the Construction Manager at Risk or Contractor, alternative approaches to design and construction of the Project in order to preserve the Scope of the Work, the Scope of the Project and the quality of the construction within Owner's overall budget for the Project.

§ 3.5.3 Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents. The Contract Documents are enumerated in the Agreement, as amended, between the Owner and Architect (hereinafter the Agreement) and consist of the Owner/Contractor Agreement, Conditions of the Contract, as amended, (General, Supplementary and other Conditions), all sections of the Project Manual, including Drawings, Specifications, and

Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract.

§ 3.5.3.2 If requested by Owner, Architect shall assist the Owner in obtaining proposals by:

- .1 providing a digital copy of the Proposal Documents for distribution to prospective proposers/contractors and plan rooms and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective proposers;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 evaluating proposals, participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 In consultation with the Owner, the Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and prepare and distribute addenda identifying approved substitutions to all prospective contractors and Owner. The Architect shall review, in conjunction with the Owner, the Owner's representative, if appropriate, and the Construction Manager at Risk or Contractor, alternative approaches to design and construction of the Project in order to preserve the Scope of the Work, the Scope of the Project, and the quality of the construction within Owner's overall budget for the Project.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction, as amended for the Project, and as specified in Section 3.1.6 herein. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. If any conflict arises between this AIA Document B101-2017 and AIA Document A201-2017, this agreement shall control to the extent affecting Architect's services. While on Owner's property and throughout Architect's services under this Agreement, the Architect shall comply with all policies, regulations, and rules of the Owner, including, but not limited to, those related to employee conduct (such as prohibitions against alcohol, weapons, drugs, fraternization, harassment, and tobacco on school property), and prohibitions against fraud and financial impropriety.

§ 3.6.1.2 The Architect shall be a representative of, and shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work. Any services by Architect made necessary due to Architect's failure to discover a construction defect or nonconforming work in accordance with the Standard of Care shall be at no additional cost to Owner. Any services by Architect made necessary by Architect's design errors or omissions in accordance with the Standard of Care shall be at no additional cost to Owner.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect, or his authorized representative, as a representative of the Owner, shall visit the site at least once per week (or more per week when deemed necessary by the Owner's representative or when necessary to protect Owner's interest), and at other intervals appropriate to the stage of the Contractor's operations (1) to observe the progress, quantity and quality of the Work completed; (2) to reject any observed nonconforming Work; (3) to become familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (4) to guard the Owner against defects and deficiencies in the Work, (5) to determine if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents and on

time, and (6) to document progress of the Work, in written and photographic form. Furthermore, a minimum of two job site meetings per month from commencement of construction through Final Completion will be initiated by the Architect. Attendees will include Owner, the Contractor's project manager and/or Owner's representative, Architect's project representative, and Architect. Architect or his authorized representative will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition, Architect or his authorized representative will provide on-site observations prior to covering up or closing up of portions of the construction that, if covered, would conceal problems with the structural integrity of the Project. Architect will advise Owner of the need for any third-party laboratory or testing services to assist the Architect, and will assist Owner in development of Requests for Proposals or other solicitations for any required testing services approved by Owner. On the basis of the site visits, on-site observations, or inspections by the Architect, Architect shall keep Owner and Owner's Contractor informed of the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. Architect shall guard Owner against defects and deficiencies in the Work, and shall promptly notify Owner and Contractor orally regarding the defect or nonconforming Work, which notice shall be followed by notice in writing of defects and nonconforming work noted and corrective actions taken or recommended. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents. Any services by Architect made necessary due to Architect's failure to discover a construction defect or nonconforming work, when Architect knew or should have known of the defect or nonconforming work, shall be at no additional cost to Owner. Any services by Architect made necessary by Architect's design errors or omissions shall be at no additional cost to Owner.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall recommend to Owner additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Construction Manager at Risk, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. Architect shall promptly notify Owner and Contractor, orally and in writing, of any observed fault or defect in the Project or nonconformance with Contract Documents, upon discovery of the defect or nonconformance, and shall notify Owner of all corrective actions taken or recommended. The testing or inspections required by this Section are subject to the requirements of Chapter 2269 of the Texas Government Code.

§ 3.6.2.3 The Architect shall interpret and make recommendations to Owner regarding matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and recommendations of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and recommendations, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, and shall not be liable for results of interpretations or recommendations rendered in good faith. The Owner's decisions on matters relating to aesthetic effect shall be final.

§ 3.6.2.5 The Architect shall promptly render initial written recommendations or interpretations on Claims, disputes, or other matters in question between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall observe the progress of the Work, evaluate, review and certify the amounts due the Contractor and shall sign and issue Certificates for Payment in such amounts if such amounts are valid, correct, and deemed due and owing, in Architect's professional opinion, within seven (7) days of receipt of Contractor's application for payment. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's observations and/or evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, the Work has progressed to the point indicated, and in Architect's professional opinion the quality of the Work is in accordance with the Construction Documents and the

Contract Documents and evaluated and certified that the amounts requested in the Application for Payment are valid and correct, in the Architect's professional opinion. If Architect disputes the Contractor's payment application in whole or in part, Architect shall provide in writing to Owner and Contractor a detailed statement of the Architect's reason for withholding certification in accordance with Texas Government Code §2251.042(a) and as provided in §§9.4.1 and 9.5.1 of the AIA A201 for the project. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect in writing to Owner.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, for the purpose of checking for conformance with information given and the design concept expressed in the Contract Documents and all laws, statutes, codes and requirements applicable to Architect's design services. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review. If it is determined that any submittal does not comply with the requirements of the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples. The Architect is not authorized to approve changes involving major systems such as HVAC, roof, foundation, outward appearance, color schemes, floor plans, building materials, or mechanical equipment without Owner's prior written consent.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect shall not be required to review submittals that are not requested by the Contract Documents.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such

requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain all records of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 With notice and consent of Owner, the Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.5.3 The Architect shall accept requests by the Owner, and shall review properly-prepared, timely requests by the Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly-prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Construction Documents or the Contract Documents, then the Architect may issue an order for a minor change in the Work, with prior written notice to the Owner, or recommend to the Owner that the requested change be denied.

§ 3.6.5.4 If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, then the Architect shall make a recommendation to approve or deny the requested change to the Owner. Based upon information furnished by the Contractor, if any, the Architect shall estimate the additional cost and time that might result from such change, including any additional costs attributable to Additional Services of the Architect. If the Architect recommends approval, then the Architect shall incorporate those estimates into a proposed Change Order or other appropriate documentation for the Owner's Board of Trustees' approval and execution.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion and of Final Completion, using Owner's or State forms, and ensure Contractor gives its notarized signature on its Certification of Substantial or Final Completion;
- .3 receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.
- .5 For any Work that exceeds \$50,000, Architect shall schedule and ensure completion of inspections with the Texas Department of Licensing and Regulation as required by Texas Government Code Section 469.105.
- .6 Owner, Architect, Contractor, and prime subcontractors, if applicable, shall certify compliance with all applicable school facility standards required in 19 TAC Section 61.1040 subsections (d) and (g)-(k). 19 TAC Section 61.1040(f).
- .7 Architect certifications. Architect shall certify the following, as required by 19 TAC 61.1040(f)(1)(B):
 - (i) Certifications related to educational adequacy under subsection (d) of 19 TAC 61.1040. The Architect for a capital improvement project shall certify compliance that the project has been

- designed in reasonable accordance with the long-range facility plan and educational specifications, if applicable.
- (ii) Certifications related to standards for space for instructional facilities under subsection (g) of 19 TAC Section 61.1040 and to standards associated with the method of compliance approved by the Owner’s Board of Trustees for instructional facility space under subsection (h) of 19 TAC Section 61.1040 related to the quantitative method of compliance or under subsection (i) of 19 TAC Section 61.1040 related to the qualitative method of compliance. To provide adequate instructional spaces and adequate space in instructional facilities, the Architect shall certify compliance that the Project has been designed in reasonable accordance with the standards for space in subsection (g) of 19 TAC Section 61.1040 and with the standards associated with the method of compliance approved by the Owner’s board of trustees under subsection (h) or (i) of 19 TAC Section 61.1040.
 - (iii) Certifications related to safety and security standards under subsection (k) of 19 TAC Section 61.1040. A design professional of record shall certify compliance that the Project has been designed in reasonable accordance with any required safety and security directives approved by the Owner in accordance with subsection (k) of 19 TAC Section 61.1040.

§ 3.6.6.2 The Architect’s inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Prior to the expiration of six months from the date of Substantial Completion, prior to the expiration of ten months from the date of Final Completion, and upon request of the Owner at any other time within one year of Final Completion, the Architect shall meet with the Owner and the Owner’s Designated representative to review the facility operations and performance; to identify defects, warranty issues, and proposed corrections; and to make appropriate written recommendations to the Owner.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are included in Basic Services. The Architect shall not be entitled to additional compensation for Services listed below unless otherwise indicated, or if such Services are not required for this project or approved by Owner.

(Designate the Architect’s Supplemental Services and the Owner’s Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services in Schedule A, to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect
§ 4.1.1.2 Multiple preliminary designs	Architect
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Architect
§ 4.1.1.5 Site evaluation and planning	Architect
§ 4.1.1.6 Building Information Model management responsibilities	Architect

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.7 Development of Building Information Models for post construction use	Architect
§ 4.1.1.8 Coordination of Civil engineering services	Architect
§ 4.1.1.9 Landscape design	Architect
§ 4.1.1.10 Architectural interior design	Architect
§ 4.1.1.11 Value analysis	Architect
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Architect
§ 4.1.1.14 Conformed documents for construction	Not Provided
§ 4.1.1.15 As-designed record drawings	Architect
§ 4.1.1.16 As-constructed record drawings	Not Provided
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Architect
§ 4.1.1.21 Telecommunications/data design	Architect
§ 4.1.1.22 Security evaluation and planning	Architect
§ 4.1.1.23 Commissioning	Not Provided
<i>(Row deleted)</i>	
§ 4.1.1.25 Fast-track design services	Not Provided
<i>(Row deleted)</i>	
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.29 [Intentionally deleted]	
<i>(Row deleted)</i>	
§ 4.1.1.30 [Intentionally deleted]	
<i>(Row deleted)</i>	

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1

(Paragraphs deleted)

Refer to Schedule A

§ 4.1.2.2

(Paragraphs deleted)

[Intentionally deleted]

§ 4.1.3 [Intentionally deleted]

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a significant change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revisions or amendments of codes, laws, or regulations, which occur after the issue of applicable building permits, including changing or editing and result in substantial revisions to previously prepared Instruments of Service;
- .3

(Paragraphs deleted)

Consultation concerning replacement of Work resulting from fire or other cause during construction; and

- .4 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification.

§ 4.2.2

(Paragraphs deleted)

[Intentionally deleted]

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Five (5) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 One (1) visit to the site by the Architect per week during construction unless more visits per week are deemed necessary by the Owner in accordance with § 3.6.2.1.
- .3 Five (5) inspections for each portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Five (5) inspections for each portion of the Work to determine final completion.

§ 4.2.4 [Intentionally deleted]

§ 4.2.5 [Intentionally deleted]

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, as required by 19 Texas Administrative Code Section 61.1040. The Architect shall review the program and specifications furnished by Owner to ascertain the specific requirements of the Project and shall arrive at a mutual written understanding of such requirements with Owner. Architect shall include all components of Owner's program in the Project, unless specific written agreement to delete a component is received from Owner.

§ 5.2 The Owner shall establish and update the Owner's budget for the Project when required, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. Owner's Board of Trustees is the only representative of Owner, an independent school district, having the power to enter into or amend a contract, to approve changes in the Scope of the Work, to approve and execute a Change Order or Construction Change Directive modifying the Contract Sum or Guaranteed Maximum Price, agree to an extension of the dates of Substantial Completion or Final Completion, or approve changes in the Architect's compensation. Owner's Board of Trustees may designate one or more representatives with authority to sign documents after Board approval and/or to advise and

consult with Architect for day-to-day operations under the agreement. Owner's Board of Trustees hereby delegates to the Superintendent the authority to approve minor contract revisions, which may arise after execution of the contract, that do not affect the material terms of the contract. Any such revisions shall be reviewed by the Board's legal counsel, confirmed in writing between the Architect and Owner's Superintendent or designee, and notice of such approved revisions shall be given to the Board of Trustees."

Owner's designated representative to sign contracts:

Name: Dr. Scott Muri Title: Superintendent, or designee.

Owner's designated representative for day-to-day operations:

Name: Dr. Scott Muri Title: Superintendent, or designee.

§ 5.4 Upon written request of the Architect, the Owner shall furnish surveys known to the Owner describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. Other than the metes and bounds noted in the legal description of the site, the Architect shall not be entitled to rely on the accuracy of information furnished by the Owner, but shall exercise proper precautions relating to the safe performance of the Work. Other than the metes and bounds noted in the survey if any, Owner does not guarantee the accuracy of surveys provided, including the locations of utility lines, cables, pipes or pipelines or the presence or absence of easements. Architect shall review this information and shall provide to Owner a written request for additional information needed, if any, for Architect to adequately perform services hereunder. Upon receipt of this request, the Owner will procure and provide to the Architect the information requested.

§ 5.5 The Owner may furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 [Intentionally deleted]

§ 5.7 [Intentionally deleted]

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports that are required by law or the Contracts to be furnished by the Owner. To the extent that tests, inspections and reports are not required by law or the Contract Documents to be furnished by Owner, but are deemed necessary by the Architect or Owner, then they shall be furnished by Architect, unless Architect receives Owner's written permission to charge Owner for the services or Owner agrees to separately contract for the services.

§ 5.10 Unless otherwise provided in this Agreement the Owner may, in its sole discretion furnish legal and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service, and

Architect shall have the reasonable amount of time required by Texas Government Code Chapter 2272 to cure its errors, omissions, or inconsistencies as a precondition to any dispute resolution proceeding involving Owner and Architect. Architect acknowledges that he is the leader of the design team and is responsible for the design of the Project. Therefore, Owner shall be entitled to rely on the Construction Documents, services, and information furnished by the Architect. This Section shall not relieve Architect of any responsibility or liability for the performance of Architect's contracted services on the Project, in accordance with the Standard of Care.

§ 5.12 The Owner shall endeavor to include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall endeavor to promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 [Intentionally deleted]

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of the Architect's compensation, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and constructed by the Owner, and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. To the extent that the Project is not completed or constructed, the Cost of the Work shall include the estimated cost to the Owner of all elements of the Project designed by the Architect and accepted by the Owner but not constructed by the Owner. The Cost of the Work does not include elements of the Project designed by Architect but not accepted by the Owner. The Cost of the Work does not include the compensation of the Architect or Architect's consultants; the costs of the land, rights-of-way, financing, or unused contingencies for changes in the Work, alternate designs of the Architect that are not constructed or accepted by the Owner; or other costs that are the responsibility of the Owner. For purposes of the Architect's compensation, the Cost of the Work shall not include the fee for management and supervision of construction or installation provided by a separate Owner representative. For purposes of the Architect's compensation, the Cost of the Work shall include the Owner's cost of labor and materials furnished by the Owner in constructing portions of the Project, if the Work is designed and construction is overseen by Architect. For purposes of the Architect's compensation, the Cost of the Work shall only include the Owner's cost of fixtures, furnishing and equipment designed by the Architect, at the request of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as allowed under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary opinion of the Cost of the Work and updated opinions of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, if the Architect's design is determined to exceed Owner's budget, then Architect agrees to redesign the Project, at Architect's expense and as a part of Architect's Basic Services, to meet Owner's budget.

§ 6.3 The Architect, and the Construction Manager at Risk, if applicable, shall prepare a preliminary opinion of the Cost of the Work, which shall incorporate Owner's budgetary constraints, programmatic needs, and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. As the design process progresses through the end of the preparation of the Construction Documents, the Architect, and, if applicable, the Construction Manager at Risk, shall update and refine the preliminary opinion of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous opinions of the Cost of the Work indicated by changes in Project requirements or general market conditions. The Architect shall cooperate with Owner and, if applicable, the Construction Manager at Risk, in developing and designing the Project to, in accordance with the Standard of Care,

satisfy Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. In preparing opinions of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project with the prior consent of Owner's Board of Trustees, or designee; and to include design alternates as may be necessary to adjust the opinion of the Cost of the Work to meet the Owner's budget.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work may be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's opinion of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, then the Architect shall redesign elements to achieve cost savings within the Scope of the Work, but in doing so, shall not delete any essential elements of the Project, without the Owner's knowledge and written consent. Architect shall present the redesign to Owner for Owner's approval and, in doing so, shall notify Owner in writing of the actions taken to bring the Project into Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality or budget. Owner shall consider Architect's recommendation, but shall decide, in its discretion, what adjustments to make.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal prior to commencement of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time, and/or authorize a different construction procurement method, consistent with State law;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work;
- .5 implement any other mutually acceptable alternative; or
- .6 direct the Architect to redesign the Project to meet the Owner's budgetary, programmatic and quality needs.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4 or 6.6.5, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents before the commencement of the Work shall be the limit of the Architect's responsibility under this Article 6.

§ 6.8 If, after commencement of the Work, the Cost of the Work is exceeded due to the negligent errors or omissions of the Architect, in accordance with the Standard of Care, then the Architect shall bear financial responsibility to Owner for the increases in the Cost of the Work, except for all materials, labor, and overhead related to the betterment obtained by the Owner. By way of example, the Architect shall bear responsibility for the difference between what would have been the original cost of that portion of the Work, but for Architect's negligent error or omission, in accordance with the Standard of Care, and the actual cost of that portion of the Work performed to remedy the negligent error or omission. Further, Architect shall not be entitled to Architect's fee for the excess Cost of the Work. Unless Architect disputes the amounts due pursuant to the alternative dispute resolution process provided in Article 8 of this Agreement, as amended, Owner shall be entitled to withhold from sums due to Architect the amounts detailed above.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Construction Documents, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

FORM A for Sections 7.2 to 7.5 (___)

FORM B FOR SECTIONS 7.2 to 7.4 (X)

(Paragraphs deleted)

§ 7.2 Architect shall provide to Owner, as a "Work Made for Hire," all Drawings, specifications, submittals, transmittals, deliverables, instructions to Contractor of Architect and Architect's consultants (including the necessary number of paper copies and electronic format copies), and other documents hereinafter "Construction Documents," that are within Architect's scope of services and are sufficient for Owner to complete construction of the Project and are free from material defects or omissions. The Construction Documents for this Project are the property of the Owner whether or not the Project is completed and whether or not Architect's Agreement is terminated. The Owner shall be furnished and permitted to retain reproducible copies and electronic versions of the Construction Documents. Only the signature details, standard details and form specifications of the Construction Documents relating to this Project may be used by the Architect on other projects, but they shall not be used as a whole without written authorization by the Owner. Owner-furnished forms, conditions, and other written documents shall not be used on other projects by the Architect without written authorization by the Owner. Owner hereby owns all common law, statutory, or other reserved rights, including copyrights, pertaining to the Construction Documents; provided, however, Owner hereby assigns to Architect the right to enforce Owner's copyright in the Construction Documents and agrees to reasonably cooperate with Architect in any proceedings related to such enforcement.

§ 7.3 The Construction Documents may be used as a prototype for other facilities by the Owner. The Owner may elect to use the Architect to perform the site adaptation and other professional services involved in reuse of the prototype. If so, then the Architect agrees to perform the work for an additional compensation that will fairly compensate the Architect and its consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be significantly less than the fee provided for under this Agreement. If the Owner elects to employ a different architect to perform the site adaptation and other professional services involved in reuse of the prototype, then that architect may use Architect's consultants on the same basis that the Architect would have been entitled to use them for the work on the reuse of the prototype, and such architect will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the Construction Documents, approved shop drawings and calculations, and "as built" in performing its work. The Architect will not be responsible for errors and omissions of a subsequent architect. The Architect shall endeavor to commit its consultants to the terms of this Section and shall notify Owner in writing if Architect is unable to do so. In the event of termination of this Agreement for any reason, the Owner shall receive all original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete the Project.

§ 7.4 The Owner shall be free to use said Construction Documents for Owner's purposes, but shall not assign, delegate, sublicense, pledge or otherwise transfer said Construction Documents, including any underlying copyright or license granted herein, to another party for use by any party other than on behalf of Owner. The Owner may use the Construction Documents for future additions or alterations to this Project or for other projects constructed by Owner. The Owner's privilege to use said Construction Documents extends to their use with and by other architects on Owner's projects only.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the dispute resolution method selected in this Agreement and within the period specified by this Agreement and by Texas law, but in any case not more than 8 years after the date of Substantial Completion of the Work, unless extended in accordance with Texas Civil Practice and Remedies Code Section 16.008. The Owner and Architect waive all causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.1.1 All claims, disputes, or matters in controversy between Owner and Architect shall be discussed by the parties in good faith, in an attempt to resolve the claim, dispute, or controversy. In the event such claim, dispute, or controversy cannot be resolved by good faith discussion between the parties, any such claim, dispute or matter in controversy shall be subject to the Owner's grievance policy GF (LEGAL) and (LOCAL) or any other applicable policy and regulations as designated by Owner, and the timelines established in the policy. Level I of the grievance process will be conducted by the Superintendent's designee or the Superintendent, as appropriate. Level II shall be heard by the Superintendent, unless he heard Level I. If the Superintendent heard Level I, then the grievance will proceed to the Owner's Board at Level III. If Architect is dissatisfied with the outcome of Owner's grievance process,

then any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to the institution of legal or equitable proceedings by either party.

§ 8.1.1.2 Architect stipulates that Owner is a political subdivision of the State of Texas, and, as such, may enjoy immunities from suit and/or liability under the Constitution and laws of the State of Texas. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 8.1.2 Only to the extent damages are fully covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction, as amended for this Project, and if applicable. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect waives consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This waiver is applicable, without limitation, to all consequential damages due to Owner's termination of this Agreement. In any litigation (or arbitration if mutually agreed upon in writing) arising under this Agreement, the types and amounts of damages recoverable shall be subject to Subchapter I of Texas Local Government Code Chapter 271.

§ 8.1.4 In any litigation under this Agreement, reasonable and necessary attorneys' fees may be awarded to the prevailing party.

§ 8.1.5 When Owner has an applicable claim for construction defects, Owner shall comply with the provisions of Texas Government Code Chapter 2272 related to the provision of notice of defects and the Contractor's or Architect's opportunity to cure.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to the institution of legal or equitable proceedings, unless the filing deadlines under applicable statutes of limitation and/or repose would otherwise expire. If suit is filed before mediation in order to avoid expiration of limitations and/or repose, then the parties agree to submit the matter to mediation as soon as reasonably possible. Claims for injunctive relief shall not be subject to this Section.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the mutually-acceptable person or entity administering the mediation. In the event the parties are unable to agree on a mediator, then the mediation shall be conducted by either the Center for Public Policy Dispute Resolution at the University of Texas School of Law or by a mediator selected by a local district court judge upon the joint request of the parties. The request shall be made within 30 days after the completion of Owner's grievance process. In no event shall the request for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute, or other matter in controversy would be barred by applicable statutes of limitation.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the county where Owner's main administrative office is located, unless another location is mutually agreed upon. Mediation shall be subject to and in accordance with Chapter 154 of the Texas Civil Practice & Remedies Code. Agreements reached in mediation shall be reduced to writing, considered for approval by the Owner's Board of Trustees, signed by the parties if approved by the Board of Trustees, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

§ 8.2.4

(Paragraphs deleted)

The parties agree that any claim, dispute, or other matter in controversy between them shall not be subject to mandatory arbitration. The parties may, however, mutually agree in writing to submit such claims, disputes, or matters in controversy to arbitration. Neither party may compel the other to arbitrate any claim, dispute, or matter in controversy between them.

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

[X] Litigation in a court of competent jurisdiction

(Paragraphs deleted)

§ 8.2.5 [Intentionally deleted]

§ 8.3 [Intentionally deleted]

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make timely payments to the Architect for undisputed sums in accordance with this Agreement, and Texas law, such failure shall be considered substantial nonperformance and cause for termination if not cured after ten (10) days written notice to Owner of the delinquency. Architect shall be allowed to suspend Architect's performance of services under this Agreement for nonpayment by Owner only after the provision of ten (10) days' written notice, in accordance with Texas Government Code section 2251.051 *et seq.* In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules may be equitably adjusted.

§ 9.2 If the Owner suspends the Project for more than ninety (90) consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. The Architect's fees for the remaining services and the time schedules may be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 consecutive days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than twenty-one (21) days' written notice and opportunity to cure should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause. The Owner may also terminate this Agreement on seven days' written notice if the budget for the Cost of the Work, prior to commencement of the Work, is exceeded by the lowest bona fide bid or negotiated proposal.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, together with Reimbursable Expenses then due.

§ 9.7

(Paragraphs deleted)

The parties hereby agree that: 1) if an order for relief is entered on behalf of the Architect, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Architect makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Architect's performance. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Architect adequate assurance of future performance in accordance with the terms and conditions of this Agreement. Failure to comply with such request within ten (10) days of delivery of the request shall entitle Owner to terminate the Architect's services in accordance with this Section.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Final Completion.

§ 9.9 The Owner's rights to use the Architect's Construction Documents in the event of a termination of this Agreement are set forth in Article 7, Section 11.9.

§ 9.10 This Agreement may be terminated by Owner if Architect engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Texas. Mandatory and exclusive forum and venue for any dispute resolution arising out of or related to this Agreement shall be in the state district courts of Ector County.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction as amended for the Project. As a material consideration of the making of this Agreement, the Modifications to this Agreement shall not be construed against the drafter of said Modifications.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other.

§ 10.4 If the Owner requests the Architect to execute certificates, the language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall execute certificates or consents consistent with the Architect's standard of care pursuant to this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site, unless Architect knew, directed, or specified that, or allowed such hazardous materials be used in the Project. Architect shall promptly disclose in writing to Owner any hazardous materials specified for the Project or discovered on site, regardless of the date of discovery or the date on which Architect learns of the hazardous nature of the materials.

§ 10.7 With prior written consent of the Owner, such consent not to be unreasonably withheld, the Architect may include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations, but may not photograph students without prior written parental consent. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. Owner provides notice that confidential and proprietary information shall include, but shall not be limited to, all items listed in Section 10.8. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information. The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public, or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants similar written agreements to maintain the confidentiality of information specifically designated as confidential by the Owner. Owner herein designates the following as confidential information: security measures; security access codes; pending real estate

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purchases, exchange, lease or value; any information pertaining to litigation; student likenesses and student record information; employee information; and any other information deemed confidential by law. As to Owner, the parties acknowledge that, as a public entity in the State of Texas, Owner is subject to, and must comply with, the provisions of the Texas Public Information Act, Texas Government Code Chapter 552 et seq. and the Texas Open Meetings Act, Texas Government Code, Chapter 551 et. seq.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

§ 10.10 NO LIENS. The parties agree that no architect, engineer, mechanic, contractor, materialman, artisan, laborer or subcontractor, whether skilled or unskilled, shall ever, in any manner have, claim or acquire any lien upon the Project of whatever nature or kind so erected or to be erected by virtue of this Agreement, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the State of Texas, or upon any funds of Owner.

§ 10.11 APPLICABLE LAW. This Agreement is subject to all applicable federal and state laws, rules, and regulations. Invalidity of any portion of this Agreement under the laws of the State of Texas or of the United States shall not affect the validity of the remainder of this Agreement.

§ 10.12 CONFLICT OF DOCUMENTS. To the extent of conflicts between the Contract Documents, amendments shall prevail over original forms.

§ 10.13 It is understood and agreed that the relationship of Architect to Owner shall be that of an independent contractor. Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Architect the servant or employee of the Owner; or 2) create any partnership, joint venture, or other association between Owner and Architect. Any direction or instruction by Owner or any of its authorized representatives in respect to the Architect's services shall relate to the results the Owner desires to obtain from the Architect, and shall in no way affect the Architect's independent contractor status.

§ 10.14 No delay or omission by either of the parties hereto in exercising any right or power accruing upon the noncompliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

§ 10.15 Pursuant to Texas Education Code Section 44.034, Architect must give advance written notice to the Owner if the Architect or an owner or operator of the Architect has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Architect failed to give such notice or misrepresented the conduct resulting in the conviction. This paragraph requiring advance notice does not apply to a publicly-held corporation.

§ 10.16 CHILD SUPPORT. By signing this Agreement, the undersigned certifies as follows: Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

§ 10.17 By executing this Agreement, Architect verifies that Architect does not boycott Israel or any Israeli-controlled territory, and will not boycott Israel or any Israeli-controlled territory during the term of this Agreement. Pursuant to Texas Government Code, Chapter 2271, as amended, if Architect is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Architect represents and warrants to the Owner that the Architect does not boycott Israel and will not boycott Israel during the term of this Agreement.

§ 10.18 Architect verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Architect misrepresents its inclusion on the list, then such omission or misrepresentation shall void this Agreement.

§ 10.19 The Architect verifies by its signature below that it is not an abortion provider or an affiliate of abortion providers.

§ 10.20

.1 By entering into this Contract, pursuant to Texas Government Code 552, Subchapter J, the Architect agrees to be bound by the following terms if the Contract has a stated expenditure of at least \$1,000,000 for the purchase of goods or services by the District or if the Contract results in the expenditure of at least \$1,000,000 in public funds for the purchase of goods or services by the District in a fiscal year of the District. If the District receives a written request for public information related to this Contract that is in the possession or custody of the Architect and not in the possession or custody of the District, the District shall send, not later than the third business day after the date the District receives the written request, a written request to the Architect that Architect provide that information to the District.

.2 The Architect must:

.1 Preserve all contracting information related to the Contract as provided by the records retention requirements applicable to the District for the duration of the Contract;

.2 Promptly, within four business days, provide to the District any requested contracting information that is in the custody or possession of the Architect upon request of the District; and,

.3 On completion of the Contract, either:

.1 Provide to the District at no cost all contracting information related to the Contract that is in the custody or possession of the Architect; or

.2 Preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the District.

.3 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract and the Architect agrees that the contract can be terminated if the Architect knowingly or intentionally fails to comply with the requirements of that subchapter.

.4 Further, under Texas Government Code Chapter 552.372(c), the District may not accept a bid for or awarding of a contract to an entity that the District has determined has knowingly or intentionally failed in a previous bid or contract to comply with Subchapter J, unless the District determines and documents that the entity has taken adequate steps to ensure future compliance.

.5 If an Architect fails to provide to the District the requested information, Texas Government Code Chapter 552.373 requires the District to notify the Architect in writing of the failure and allow 10 business days to cure the violation. District may terminate the Contract if Architect fails to remedy the failure, District determines the failure was knowing and intentional, and steps have not been taken to ensure future compliance.

.6 If Architect is not a sole proprietorship, has ten (10) or more employees, and the value of Contractor's bid or proposal has a value of \$100,000 or more, Contractor certifies by submitting Contractor's bid or proposal that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined by Texas Government Code Ann. Chapter 2274, and will not during the term of any contract with the Owner, unless excepted from that law.

.7 As required by Texas Government Code Ann. Chapter 2274, if Contractor has ten (10) or more employees, is not a sole proprietorship, and if the value of Contractor's bid or proposal has a value of \$100,000 or more, Contractor certifies by submitting Contractor's bid or proposal that it does not boycott energy companies and will not during the term of any contract with the Owner, unless excepted by that law.

§ 10.21.1 CRIMINAL HISTORY RECORD CHECKS

§ 10.21.1 So that Owner can obtain the national criminal history record information required by Texas Education Code Section 22.0834 on all "covered employees" (as defined in Section 10.21.3) of Architect, its subcontractors, or any subcontracting entities who will perform Architect's services, Architect shall submit to Owner the name and all necessary identifying information necessary to enable Owner to obtain the national criminal history information on those covered employees before they begin the Architect's services. Architect's submission will include the employee's written authorization for Owner to obtain such criminal history information. Owner may, in its sole discretion, prohibit the use of any employee to perform the Architect's services after its review of the criminal history information, but cannot disclose the criminal history information to Architect. Architect shall reimburse Owner for Owner's costs incurred in obtaining the criminal history information.

§ 10.21.2 Architect will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to perform Architect's services. If Architect receives information that a covered employee has a reported disqualifying criminal history, then Architect will immediately remove the covered employee from the Project and notify the Owner in writing within three business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Architect agrees to discontinue using that covered employee to provide services on Owner's Project. If Architect has taken precautions or imposed conditions to ensure that the employees of Architect and any Architect consultant will not become covered employees, Architect will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 10.21.3 For the purposes of this Section, "covered employees" means employees, agents, or applicants of Architect who have or will have continuing duties related to the services to be performed on Owner's Project and have or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. The definition of "covered employees" does not include individuals working on the Work: (1.) does not involve the construction, alteration, or repair of an instructional facility as defined herein; (2.) involves construction of a new instructional facility and the persons duties related to other contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or (3.) involves an existing instructional facility and: (a.) the work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and (b.) the contracting entity adopts a policy prohibiting employees, contractors, and subconsultants from interacting with students or entering areas used by students, informs employees, contractors, and subconsultants of the policy, and enforces the policy at the work area. "Disqualifying criminal history" means: any conviction or other criminal history information designated by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification under Texas Education Code Section 21.060, and 19 Texas Administrative Code Section 249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in public school; a felony offense under Texas Penal Code Title 5 Offense Against Persons; an offense for which a

defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or an equivalent offense under federal law or the laws of another state; or a felony violation of Texas Penal Code Section 43.24 related to the sale, distribution or display of harmful material to a minor. The term "instructional facility" means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under the state curriculum for kindergarten through grade 12.

§ 10.21.4 Architect's violation of this section shall constitute a substantial failure under Article 14 of AIA Document A201-2017, General Conditions of Contract for Construction, as amended by Owner for this project.

§ 10.21.5 Architect shall assume all expenses associated with the background checks.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3 and supplemental services under § 4.1, the Owner shall compensate the Architect for all undisputed payments as set forth below. To the extent Owner disputes any payment allegedly due, Owner shall notify Architect that a dispute exists, shall list the specific reason for nonpayment, and shall give Architect an opportunity to cure the noncompliance or offer compensation for noncompliance that cannot be cured, in accordance with Texas Government Code Chapter 2251. Owner shall further have the right to withhold payments as specified in Sections 6.8 and 11.10.2.2 of this Agreement.

.1 [Intentionally deleted]

.2 Hourly Basis with not-to-exceed maximum of \$85,000.00. Any changes to the not-to-exceed maximum must be by written consent by the Owner.

(Paragraph deleted)

When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project accepted by the Owner shall be payable in accordance with Section 6.1 herein;

Compensation shall be paid based on the percentage of the services actually completed by Architect. Progress payments for services in each phase for services completed shall total the percentages applicable to each phase of Architect's services in 11.5.

.3 Other
(Describe the method of compensation)

N/A

§ 11.2

(Paragraphs deleted)

[Intentionally deleted]

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

As agreed between the parties in writing, executed prior to the Architect beginning performance of the Additional Services. Compensation of additional services will be based on hourly rate as described in schedule B.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.3, shall be the amount invoiced to the Architect or as follows:

(Insert amount of, or basis for computing, Architect's consultants' compensation for Additional Services.)

N/A

§ 11.4.1 The Architect shall invoice for site/civil engineering services rendered by their site/civil engineer of record with zero (0%) percent markup.

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	fifteen	percent (	15	%)
Design Development Phase	twenty-five	percent (	25	%)
Construction Documents Phase	thirty	percent (	30	%)
Procurement Phase	five	percent (	5	%)
Construction Phase	twenty-five	percent (	25	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 [Intentionally deleted]

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Refer to attached Schedule B
(Table deleted)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 [Intentionally deleted];
- .2 [Intentionally deleted];
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing and reproductions, plots, and standard form documents of Construction Documents, other than those required to be provided by Architect under this Agreement;
- .5 Postage, handling, and delivery of Construction Documents, other than those required to be provided by Architect under this Agreement;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance in writing by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner after Architect's provision of one artist's rendering or mock-up of each building in the Project;
- .8 [Intentionally deleted];
- .9 [Intentionally deleted];
- .10 [Intentionally deleted];
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective.
- .12 [Intentionally deleted].

§ 11.8.2 For Reimbursable Expenses the compensation shall be only the actual expenses incurred by the Architect and the Architect's consultants.

§ 11.9

(Paragraphs deleted)

Compensation For Use Of Architect's Instruments Of Service. The parties agree that Architect's compensation for Basic Services includes all licensing fees for Owner's use of the Construction Documents, including use after termination of this Agreement, to the extent allowed by this Agreement.

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 [Intentionally deleted]

§ 11.10.1.2 [Intentionally deleted]

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments for undisputed amounts are due and payable within thirty (30) days after receipt of the Architect's invoice by Owner's designated representative. Undisputed amounts unpaid more than Thirty (30) days after Owner's receipt of the invoice shall bear interest at the rate entered

(Paragraphs deleted)

below specified by Texas Government Code § 2251.025 or its successor.

(NOTE: Per Texas Government Code Section 2251.025, these blanks should be filled in with "30" if the school board meets more often than once per month and with "45" if the school board meets once per month.)

§ 11.10.2.2 The Owner may withhold payments after appropriate notice as to the reasons for the withholding, to the Architect for the purposes of reimbursing Owner for any damages caused by the Architect, for changes in the Cost of the Work which result in Architect's compensation being reduced, for Architect's failure to comply with the provisions of any part of this Agreement, if a claim has been filed against Architect, or to secure performance of Architect's services and obligations under any part of this Agreement.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be provided to the Owner upon presentation of Architect's progress payment applications.

§ 11.11 Architect shall reasonably cooperate with Owner, at no additional cost to Owner, in connection with a legal proceeding against Owner that relates to the Project.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

§12.1 INDEMNITY. Approval of any Construction Documents by Owner shall not constitute and shall not be deemed to be a release of the responsibility and liability of Architect, its agents, employees, and subcontractors, for Construction Documents which are sufficient for Owner to complete the construction of the Project and are free from material defects or omissions, nor shall such approval be deemed to be an assumption of such responsibility and liability by Owner for any defect in the Construction Documents prepared by Architect, its agents, employees, subcontractors, or consultants, it being the intent of the parties that the approval by Owner signifies Owner's approval of only the general design concept of the improvements to be constructed. In this connection, ARCHITECT SHALL, DURING THE CONSTRUCTION OF SAID PROJECT AND FOR A PERIOD OF EIGHT YEARS AFTER SUBSTANTIAL COMPLETION INDEMNIFY AND HOLD HARMLESS OWNER AND ALL OF ITS OFFICERS, TRUSTEES, AGENTS, REPRESENTATIVES, SERVANTS, AND EMPLOYEES FROM ANY LOSS, DAMAGE, LIABILITY, OR EXPENSE, INCLUDING REASONABLE ATTORNEY'S FEES, INCURRED BY OWNER ON ACCOUNT OF DAMAGE OR DESTRUCTION TO PROPERTY AND INJURIES, INCLUDING DEATH, TO ANY OR ALL PERSONS, INCLUDING INVITEES AND EMPLOYEES OF THE OWNER, CONTRACTOR, ARCHITECT, OR SUBCONTRACTORS AND OF ALL OTHER PERSONS PERFORMING ANY PART OF THE WORK, THAT IS CAUSED BY OR RESULTS FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER, COMMITTED BY THE ARCHITECT, OR THE ARCHITECT'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL; provided and except, however, that this indemnification provision shall not be construed as requiring Architect to indemnify or hold Owner harmless for any

loss, damage, liability, or expense on account of damaged property or injuries, including death to any person, which may arise out of or may be caused by any act of negligence or breach of obligation under this Agreement by Owner or Owner's employees or agents, except Architect.

§ 12.2 THE PROVISIONS OF SECTION 12.1 IN ITS ENTIRETY SHALL SURVIVE THE COMPLETION, TERMINATION OR EXPIRATION OF THIS CONTRACT.

§ 12.3 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under Paragraph 12.1, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect.

§ 12.4 It is understood and agreed that Article 12 above is subject to, and expressly limited by, the terms and conditions of Texas Civ. Prac. & Rem. Code Ann. Sec. 130.001 to 130.005, as amended.

§ 12.5 RECORDS RETENTION. Architect shall keep all accounting and construction records on the Project for a period of at least ten years after Final Completion of the Project, and thereafter shall offer the records to the Owner in writing, in order for Owner to comply with its records retention requirements, per the Texas Government Code section 441.158 et seq. and the Texas Library and Archives Commission's Local Schedule GR (Government Records). In the alternative, Architect may provide such records to Owner for retention at any time if Owner agrees in writing to accept such records in lieu of Architect's retention under this Section.

§ 12.6 COMPLAINTS. The Texas Board of Architectural Examiner has jurisdiction over complaints regarding the professional practices of persons registered as architects in Texas under the Architects Registration Law. Texas Occupations Code Chapter 1051. The Texas Board of Architectural Examiners can be reached at P. O. Box 12337, Austin, Texas 78711-2337 or 505 E Huntland Dr., Austin, Texas 78752, by phone at (512) 305-9000, by fax at (512) 305-8900, or on the web at <http://tbae.state.tx.us>.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral unless specifically provided for otherwise in this Agreement, as amended. This Agreement may be amended only by written instrument approved by the Owner's Board of Trustees and signed by both the Owner's designated representative and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect, as amended for this Project;
- .2 AIA Document

(Paragraphs deleted)

A201 2017 General Conditions of Contract for Construction, as amended for this project

- .3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

- .4 Other documents:

Init.

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User Notes:

(1515547205)

(List other documents, if any, forming part of the Agreement.)

Schedule A – Description of Services referenced in Article 4.1.1.
Schedule B – Architect’s Hourly Rates referenced in Article 11.7

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

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT

PARKHILL

OWNER *(Signature)*

ARCHITECT *(Signature)*

Dr. Scott Muri | Superintendent
(Printed name and title)

David Finley, EdD, AIA, ALEP | Principal
(Printed name, title, and license number, if required)



SCHEDULE A

The following descriptions provide the scope and extent that Basic Services will be provided under 4.1.1.

§ 4.1.1.1 Programming

§ 4.1.1.2 Multiple preliminary designs

§ 4.1.1.3 Measured drawings

§ 4.1.1.4 Existing facilities surveys

§ 4.1.1.5 Site evaluation and planning

As part of Basic Services, Architect will evaluate and plan the Owner's proposed site with regard to size, access and circulation for vehicular traffic and franchise utilities.

§ 4.1.1.8 Civil Engineering

As part of Basic Service, Architect to provide on-site development services including parking lots, sidewalks, drainage and vehicle circulation. Additional Services plus reimbursable expenses shall include extension of off-site utilities and/or roads, if any.

§ 4.1.1.9 Landscape Design

Architect to provide planting and irrigation design services as Basic Service.

§ 4.1.1.10 Architectural Interior Design

The Architect will include in its Basic Services, the preparation of two (2) color schemes for the Owner's selection. The schemes will identify basic floor, wall and ceiling colors, finishes and textures; it will not be a detailed selection of all materials. After a selection of the schematic scheme by the Owner, Architect will proceed to develop one in-depth color, finish and texture submittal for the Owner's approval. A maximum of two (2) meetings for development of the final scheme is included in this Agreement. Additional meetings, if required, will be Additional Services and compensated in accordance with Section 11.3. After approval of the color scheme, a digital presentation board will be prepared in PDF format for use by the Owner. As an optional Additional Service plus reimbursable expenses, a product sample presentation board of the approved color scheme can be prepared for use by the Owner.

§ 4.1.1.11 Value Analysis

Architect to provide services indicated in section 3.2.5.1 as pr of Basic Services. Efforts beyond these sections are Additional Services plus reimbursable expenses.

§ 4.1.1.12 Detailed Cost Estimating beyond that requested in Section 6.3

Additional independent, third party professional as Supplemental Service, plus reimbursable expenses.

§ 4.1.1.13 On-site Project Representation

As part of Basic Services, Architect to provide services indicated in Sections 3.6.2.1. Site visits beyond those indicated in section 3.6.2.1 and/or full-time on-site project representation shall be an Additional Service plus reimbursable expenses.

§ 4.1.1.20 Coordination of Owner's Consultants

As part of Basic Services, Architect shall coordinate with Owner's Consultants as indicated in Section 3.1.2.

§ 4.1.1.21 Telecommunications/data design

As part of Basic Services, Architect to coordinate the Owner's provided requirements into the Work. Should Owner require more experience than that possessed by the Architect, then a Telecommunications/Data consultant will be hired as an Additional Service plus reimbursable expenses.

§ 4.1.1.22 Security Evaluation and Planning

As part of Basic Services, Architect to provide input based on experience and coordinate with Owner's needs and requirements to incorporate into the Work. Should Owner require more experience that that possessed by the Architect, then a security consultant will be hired as an Additional Service plus reimbursable expenses.

Parkhill
Hourly Rate Schedule
 January 1, 2024 through December 31, 2024
 SCHEDULE B

Client: Ector County Independent School District

Project: Austin ES Cafeteria Renovations

Agreement Date: June 18, 2024

Location: 200 West 9th Street, Odessa, Texas 79761

CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE
SUPPORT STAFF I	\$75.00	PROFESSIONAL LEVEL III		PROFESSIONAL LEVEL VI	
SUPPORT STAFF II	\$88.00	Architect	\$186.00	Architect	\$281.00
SUPPORT STAFF III	\$120.00	Civil Engineer	\$227.00	Civil Engineer	\$337.00
SUPPORT STAFF IV	\$129.00	Electrical Engineer	\$222.00	Electrical Engineer	\$292.00
SUPPORT STAFF V	\$143.00	Interior Designer	\$166.00	Interior Designer	\$251.00
SUPPORT STAFF VI	\$154.00	Landscape Architect	\$179.00	Landscape Architect	\$257.00
PROFESSIONAL LEVEL I		Mechanical Engineer	\$211.00	Mechanical Engineer	\$304.00
Architect	\$151.00	Structural Engineer	\$219.00	Structural Engineer	\$300.00
Civil Engineer	\$165.00	Survey Tech	\$170.00	Professional Land Surveyor	\$239.00
Electrical Engineer	\$168.00	Other Professional	\$163.00	Other Professional	\$236.00
Interior Designer	\$144.00	PROFESSIONAL LEVEL IV		PROFESSIONAL LEVEL VII	
Landscape Architect	\$144.00	Architect	\$226.00	Architect	\$356.00
Mechanical Engineer	\$158.00	Civil Engineer	\$265.00	Civil Engineer	\$366.00
Structural Engineer	\$158.00	Electrical Engineer	\$260.00	Electrical Engineer	\$395.00
Survey Tech	\$134.00	Interior Designer	\$181.00	Interior Designer	\$271.00
Other Professional	\$141.00	Landscape Architect	\$194.00	Landscape Architect	\$284.00
PROFESSIONAL LEVEL II		Mechanical Engineer	\$248.00	Mechanical Engineer	\$390.00
Architect	\$163.00	Structural Engineer	\$253.00	Structural Engineer	\$293.00
Civil Engineer	\$184.00	Survey Tech	\$207.00	Professional Land Surveyor	\$319.00
Electrical Engineer	\$190.00	Other Professional	\$193.00	Other Professional	\$293.00
Interior Designer	\$151.00	PROFESSIONAL LEVEL V			
Landscape Architect	\$151.00	Architect	\$275.00		
Mechanical Engineer	\$181.00	Civil Engineer	\$319.00		
Structural Engineer	\$179.00	Electrical Engineer	\$317.00		
Survey Tech	\$146.00	Interior Designer	\$218.00		
Other Professional	\$148.00	Landscape Architect	\$236.00		
		Mechanical Engineer	\$302.00		
		Structural Engineer	\$305.00		
		Professional Land Surveyor	\$240.00		
		Other Professional	\$215.00		



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Keeley Boyer, Chief of Schools, and Anthony Sorola, Associate Superintendent of Athletics, Human Capital, and Operations

SUBJECT: DISCUSSION OF AND REQUEST FOR APPROVAL OF THE 2024-2025 DISTRICT IMPROVEMENT PLAN

DATE: June 18, 2024

The purpose of this request is to ask for approval of the District Improvement Plan (DIP) for 2024-2025. The Board of Trustees are required to approve the DIP's goals and performance objectives annually. The presentation will demonstrate how district leaders align the DIP to the Strategic Plan. The plan looks similar to last year with some adjustments based on the data we have received thus far. The Comprehensive Needs Assessment (CNA) is not complete as the State of Texas will not have the STAAR/EOC data available until August 2024. The CNA will include data that is available to us currently. Additions to the CNA and the DIP will be made as data comes available.

Administrative Recommendation:

Approval of ECISD 2024-2025 District Improvement Plan

Ector County Independent School District

District Improvement Plan

2024-2025 Board Goals/Performance Objectives/Strategies



674

Vision

Complete individual graduation plan then transition into a college, career, and/or military setting.

Build positive partnerships with families and community members so the necessary resources and support services can be provided.

Celebrate opportunities where hard work and progress is made in academics and self-discipline.

Table of Contents

Board Goals 4

Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas. 4





Board Goal 2: Through foundational excellence, talent development and the learning journey, the percentage of 3rd grade students reading at or above grade level will increase from 35% to 45% by May 2024. 25

Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024. 32

Board Goals





Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.

Performance Objective 1: ECISD will provide the network infrastructure and technology standards to ensure safety and connectivity for anytime/anywhere learning.

Strategy 1 Details	Reviews			
<p>Strategy 1: Standardize classroom instructional technology to include 1:1 staff mobile devices.</p> <p>Strategy's Expected Result/Impact: Provide digital mobility to staff by deploying all instructional staff mobile devices and work station peripherals such as monitor, keyboard, mouse and docking station.</p> <p>Staff Responsible for Monitoring: Chief Technology Officer Director of Information Technology Director of Information Systems Director of Digital Learning</p> <p>Equity Plan</p>	Formative			Summative
	Oct	Jan	Mar	May
				677
Strategy 2 Details	Reviews			
<p>Strategy 2: Earn the Trusted Learning Environment Seal and establish Trusted Learning Environment Framework.</p> <p>Strategy's Expected Result/Impact: Reduction of data breach risk and damage to district digital resources. Increased security of student data. The TLE Seal Program requires school systems to have implemented high standards for student data privacy protections around five core practice areas: Leadership, Business, Data Security, Professional Development, and Classroom.</p> <p>Staff Responsible for Monitoring: Chief Technology Officer Director of Information Technology Director of Information Systems Director of Digital Learning</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.





Performance Objective 2: ECISD will provide the environment conducive to all educational needs in conjunction with the development of a Long Range Facilities Plan that will move the District forward in the future.

Strategy 1 Details	Reviews			
<p>Strategy 1: Establish up to date design standards for buildings that align with current teaching standards.</p> <p>Strategy's Expected Result/Impact: Design Building standards that are up to date with current teaching practices will ensure teaching and learning is functioning at a high level.</p> <p>Staff Responsible for Monitoring: District Operations; COO, Exec. Dir., Supervisor of Construction, and Supervisor Projects.</p> <p>Results Driven Accountability - Equity Plan</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 2 Details	Reviews			
<p>Strategy 2: Engage with all stakeholders and outside experts to work collaboratively in the design and/or redesign of our learning environments. This will also include the development of a Long Range Facility Plan that will help guide the district in future decisions regarding facilities,</p> <p>Strategy's Expected Result/Impact: Update the Districts facilities to support the programs-practices and provide a plan for the future facility needs of the District. Provide equity in building designs across the District.</p> <p>Staff Responsible for Monitoring: District Operations; COO, Exec. Dir., Supervisor of Construction, and Supervisor Projects</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: Facility Review and Bond Committee input on Community needs/direction for the future of the District - Bond Funds</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.

Performance Objective 3: ECISD will ensure efficient systems are in place to increase productivity to meet the needs of all that we serve.

Strategy 1 Details	Reviews			
<p>Strategy 1: ECISD will develop long range maintenance practices for Fine Arts instruments and equipment. Strategy's Expected Result/Impact: Proper maintenance of Fine Arts instruments and equipment will increase equipment life and reduce replacement costs. Staff Responsible for Monitoring: Executive Director of Fine Arts Funding Sources: Inventory Management System - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 2 Details	Reviews			
<p>Strategy 2: ECISD athletics will improve the district and UIL compliance process by establishing a digitally driven platform. Strategy's Expected Result/Impact: Processes will increase athletic department efficiency in equity, funding, district and state compliance. Staff Responsible for Monitoring: Executive Director for Athletics, Asst. Athletic Directors Equity Plan</p>	Formative			Summative
	Oct	Jan	Mar	May
				679
Strategy 3 Details	Reviews			
<p>Strategy 3: Implement Wi-Fi connectivity on all activity buses. Strategy's Expected Result/Impact: Providing Wi-Fi to students on activity buses will provide them with internet connectivity therefore increasing their learning opportunities. This will be the first phase of Wi-Fi implementation on some buses. Phase two will include buses with far reaching routes. Staff Responsible for Monitoring: Chief Operations Officer/Exec. Dir. Operations/Director of Transportation/Technology Results Driven Accountability - Equity Plan</p>	Formative			Summative
	Oct	Jan	Mar	May

Strategy 4 Details	Reviews			
<p>Strategy 4: Athletics will monitor students attendance and grades throughout the school year.</p> <p>Strategy's Expected Result/Impact: Improve attendance and academic grade percentages each six weeks.</p> <p>Staff Responsible for Monitoring: Athletic Directors-Athletic Department</p> <p>Equity Plan</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 5 Details	Reviews			
<p>Strategy 5: PE/Health department will utilize new fitness gram technology IHT to monitor student's fitness and the input of fitness gram data on 43 campuses in ECISD to TEA.</p> <p>Strategy's Expected Result/Impact: Any student receiving PE credit in ECISD 3rd- 12th grade will have fitness gram data submitted to TEA .</p> <p>Staff Responsible for Monitoring: PE/Health Department will have access to monitor coaches and teachers fitness gram data.</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.


Performance Objective 4: ECISD will embed technology for anytime, anywhere teaching and learning.


Strategy 1 Details	Reviews			
<p>Strategy 1: ECISD will utilize technology resources that will enable students, teachers and leaders to implement and monitor personalized learning for all, including the following: Learning Management System (LMS) Adaptive Technology Online Literacy Libraries Eduphoria Brainchild Edgenuity Imagine learning Istation</p> <p>Strategy's Expected Result/Impact: Increase percent of students working on grade level in reading and math by 10% as reported on Imagine Learning Math Platform and Istation Reading Platform.</p> <p>Staff Responsible for Monitoring: Principals, Teachers, Executive Directors of Instruction and Literacy, Content Coordinators, Instructional Specialists</p> <p>Results Driven Accountability</p> <p>Funding Sources: Supplemental technology, software, instructional platforms that remediate, engage and elevate student learning to close achieve gaps suffered by educationally disadvantaged students. - State Comp Ed - pic 24, 28, 30, 34</p>	Formative			Summative
	Oct	Jan	Mar	May
				681


Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.

Performance Objective 5: ECISD will provide a rigorous, relevant and engaging curriculum

Strategy 1 Details	Reviews			
<p>Strategy 1: ECISD will tightly implement PK-12 instructional frameworks for ELAR, Math, Science, & Social Studies, and district-approved curriculum resources that meet all students' learning needs, interests, aspirations, and cultural backgrounds. ECISD will continuously evaluate the curriculum to ensure all students have equitable access to rigorous resources aligned to the TEKS. 100% of core content teachers will use district-approved resources with fidelity by May 2025.</p> <p>Strategy's Expected Result/Impact: Increase student growth to 56% of our students meeting or exceeding their projected growth as determined by the NWEA MAP Growth Assessment in reading and math.</p> <p>Staff Responsible for Monitoring: Executive Director of Accountability and Assessment, Content Coordinators, C&I Specialists, Executive Director of C&I (AVID Department will continue offering PD in best practices using AVID systems)</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: Curriculum implementation - Local, Supplemental curriculum and AVID Program support for At Risk students - State Comp Ed, Curriculum implementation, Curriculum Specialist - Title One School-wide, Tutoring, Extended learning year, Supplemental technology & software to meet remediation needs of at risk students - State Comp Ed, Community Outreach Center, Social workers, SAS Counselors & curriculum to support SEL needs of at risk students - State Comp Ed, Professional & paraprofessional EL staff to support campuses EL regular year and summer programs - State Comp Ed, EL supplemental support materials for EL instruction - State Comp Ed</p>	Formative			Summative
	Oct	Jan	Mar	May
				682
Strategy 2 Details	Reviews			
<p>Strategy 2: ECISD will provide Visual Arts supplemental curriculum to ensure all students have equitable access to rigorous resources aligned to the TEKS. All visual arts teachers will have personalized professional learning embedded in the supplemental curriculum to create a strong support mechanism for our new and struggling teachers.</p> <p>Strategy's Expected Result/Impact: Aligning Resources to Standards Providing Well-Rounded Education to ECISD Students Formative Assessments to Track Progress</p> <p>Staff Responsible for Monitoring: Executive Director of Fine Arts, Fine Arts Coordinator</p> <p>Equity Plan</p> <p>Funding Sources: Supplemental Curriculum - Title IV</p>	Formative			Summative
	Oct	Jan	Mar	May

 No Progress

 Accomplished





 Continue/Modify

 Discontinue

Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.





Performance Objective 6: ECISD will build a district-wide awareness and commitment to develop, implement and integrate SEL initiatives.

Strategy 1 Details	Reviews			
<p>Strategy 1: Analyze & Utilize Data from district Social Emotional Learning Readiness Engagement Analysis (SELREA) to guide implementation and integration of Social-Emotional-Cultural framework into campus culture and cross-curricular lessons plans.</p> <p>Strategy's Expected Result/Impact: Incorporate SEL instructional strategies into student lessons plans, and adult PLCs. Campus visits to verify lessons plans, monitor daily objectives, and SEL components in the classroom.</p> <p>Staff Responsible for Monitoring: Executive Director of Accountability Executive Director of Guidance and Counseling Director of Guidance and Counseling Coordinator of Social Emotional Learning</p> <p>Results Driven Accountability</p> <p>Funding Sources: - Local, - Title IV</p>	Formative			Summative
	Oct	Jan	Mar	May
				684
Strategy 2 Details	Reviews			
<p>Strategy 2: ECISD will assess and expand a plan for systemic SEL implementation and integration including the role SEL plays in ECISD achieving its priorities and goals.</p> <p>Strategy's Expected Result/Impact: By the end of 2024, all ECISD instructional staff will be able to define social emotional learning, and explain the mental health and academic benefits of SEL for students, as evidenced by Panorama data, and survey collection.</p> <p>Staff Responsible for Monitoring: Executive Director of Accountability, Executive Director of Guidance & Counseling, Director of Guidance and Counseling, Coordinator of SEL</p> <p>Funding Sources: - Local</p>	Formative			Summative
	Oct	Jan	Mar	May

Strategy 3 Details	Reviews			
<p>Strategy 3: ECISD will deploy an SEL communication plan that highlights the importance of SEL for all students, parents, staff, and community members to include internal and external stakeholder groups.</p> <p>Strategy's Expected Result/Impact: An internal and external communication plan for staff and community members will be supported by an SEL monthly newsletter. Additional videos, informational letters, and pertinent information will be sent via the district parent communication platform. Community informational videos will be delivered via social media in partnership with the communication department, and posted on our department website and YouTube.</p> <p>Staff Responsible for Monitoring: Executive Director of Accountability, Executive Director of Guidance & Counseling, Director of Guidance and Counseling, Coordinator of SEL</p> <p>Funding Sources: - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 4 Details	Reviews			
<p>Strategy 4: ECISD PreK-12 SEL Framework and standards will be aligned with and integrated into curriculum and instruction.</p> <p>Strategy's Expected Result/Impact: SEL explicit instruction will occur through 7 Mindsets lessons (delivered daily in small sections, or all at one time), additional classroom integration of 7 Mindsets will be implemented into ELAR and Social Studies classroom lesson plans, and all classrooms will utilize SEL instructional strategies. Data collection from the 7 Mindsets company will be reviewed to ensure SEL delivery.</p> <p>Staff Responsible for Monitoring: Executive Director of Accountability, Executive Director of Guidance, Counseling and Wellness, Executive Directors of Curriculum & Coordinators, Director of Guidance and Counseling, Coordinator of SEL</p> <p>Funding Sources: - Local, - Title IV</p>	Formative			Summative
	Oct	Jan	Mar	May
				685
Strategy 5 Details	Reviews			
<p>Strategy 5: Systems and structures will be developed to review disaggregated discipline data regularly, and to use data to address root causes of behavior.</p> <p>Strategy's Expected Result/Impact: ECISD discipline practices and policies will have evidence of alignment with SEL. Discipline will emphasize proactive and restorative practices, which support a school climate that addresses the root causes of student behavior.</p> <p>Staff Responsible for Monitoring: Executive Directors of Leadership Executive Director of Guidance and Counseling, Director of Guidance and Counseling, Coordinator of SEL</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.





Performance Objective 7: ECISD will develop collective understanding and shared vision of Social Emotional Learning (SEL) among the adults and students in our organization that creates systemic change where SEL can thrive.

Strategy 1 Details	Reviews			
<p>Strategy 1: ECISD will provide ongoing professional learning about SEL research and practice to central office leaders and staff from all departments and campuses, including foundational professional learning for all new staff. SEL learning strategies will be intertwined with other professional learning throughout the year through collaboration with Talent Development office</p> <p>Strategy's Expected Result/Impact: 100% of District Leadership Team will receive SEL professional learning. 80% of staff from all departments and campuses, including foundational professional learning for all new staff, will be trained in SEL research and practice. 100% of staff will develop skills for creating supportive and equitable learning environments that promote social, emotional and cultural learning for students.</p> <p>Staff Responsible for Monitoring: Executive Director of Guidance & Counseling, Director of Guidance and Counseling, SEL Coordinator, Talent Development</p> <p>Funding Sources: - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
				686
Strategy 2 Details	Reviews			
<p>Strategy 2: Data will be continuously collected and evaluated regarding student connectedness for continuous improvement of SEL implementation.</p> <p>Strategy's Expected Result/Impact: 95% participation in Panorama surveys. Data reports will be distributed at least twice a year to campuses for progress monitoring of SEL implementation and plans for improvement.</p> <p>Staff Responsible for Monitoring: Executive Director of Accountability, Exec Director of Guidance & Counseling, Director of Guidance and Counseling, SEL Coordinator</p> <p>Funding Sources: - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.

Performance Objective 8: ECISD will develop and implement systems and supports for students and families that promote recovery and resiliency.

Strategy 1 Details	Reviews			
<p>Strategy 1: Pregnancy/Parenting services will be provided to ensure that barriers due to parenthood are removed and 85% of the students in the program will graduate and 95% of graduates will meet CCMR expectations.</p> <p>Strategy's Expected Result/Impact: Provided services include counseling, home-bound services, tutoring, and other services needed to ensure students' graduation. 85% of students will be on track to graduate and 95% of graduates will meet CCMR expectations.</p> <p>Staff Responsible for Monitoring: TPRS Coordinator TPRS Department</p> <p>Equity Plan</p> <p>Funding Sources: TPRS/TRAC - State Comp Ed</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 2 Details	Reviews			
<p>Strategy 2: Gather information on evidence-based, best practices for restorative and trauma-informed strategies in response to discipline referrals and expulsions.</p> <p>Strategy's Expected Result/Impact: Create and deliver professional learning training for 100% campus administration and instructional staff.</p> <p>Staff Responsible for Monitoring: Executive Director of Guidance & Counseling, Director of Guidance and Counseling, SEL Coordinator</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 3 Details	Reviews			
<p>Strategy 3: To comply with House Bill 4545, students who failed to attain proficiency on a STAAR or EOC exam received targeted additional instruction either individually or in a group of no more than 3 students. The instruction was delivered face-to-face or remotely by highly qualified, highly trained tutors from Air Tutors, FEV Tutors, and Amplify.</p> <p>Staff Responsible for Monitoring: Principals, Executive Directors of Leadership, Executive Director of Curriculum and Instruction, and High Impact Tutoring Coordinator</p>	Formative			Summative
	Oct	Jan	Mar	May





Strategy 4 Details	Reviews			
<p>Strategy 4: The Advanced Academic Services Department holds an acceleration camp for our Gifted and Talented students each summer. Camp SIP (Scholars in Progress) will be extended to middle school beginning in the summer of 2022. We will continue to grow middle school Camp SIP during the summer of 2024.</p> <p>Strategy's Expected Result/Impact: Gives the GT students to opportunity to explore their passions and deepen their creative thinking.</p> <p>Staff Responsible for Monitoring: AAS Department and Camp SIP Teachers/Staff.</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.

Performance Objective 9: ECISD will provide and safe and supportive school environment

Strategy 1 Details	Reviews			
<p>Strategy 1: Awareness training about child abuse/maltreatment of children will be provided to all staff and students. Counselors will train campus staff during on-campus professional development on child abuse prevention, reporting requirements, and ECISD-specific procedures. Required child abuse awareness posters for students will be displayed on all campuses, at student eye level.</p> <p>Strategy's Expected Result/Impact: Increased ability of staff and students to recognize and report signs of abuse.</p> <p>Staff Responsible for Monitoring: Talent Development, Guidance and Counseling, Nursing and Health Services, ECISD Police Dept.</p> <p>Funding Sources: - Local, - State Comp Ed</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 2 Details	Reviews			
<p>Strategy 2: All staff will receive Suicide Prevention education through SafeSchools, and face-to-face instruction concerning ECISD suicide prevention response procedures by Professional School Counselors and SAS Counselors. Students will receive suicide prevention guidance lessons through the Professional School Counselors, SAS Counselors, and community partners. Counselors will collaborate with community partners and ECISD police as needed. All counselors and nurses will be trained yearly in ECISD crisis response procedures.</p> <p>Strategy's Expected Result/Impact: 100% of all campus staff will be trained in suicide prevention. Age-appropriate training will be provided to students.</p> <p>Staff Responsible for Monitoring: Guidance and Counseling, Nursing and Health Services</p> <p>Funding Sources: SAS Counselors - Local, - State Comp Ed</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 3 Details	Reviews			
<p>Strategy 3: Conflict resolution and violence prevention programs will be offered. ECISD police officers will be trained in conflict resolution and de-escalation techniques and will address violence through municipal court and teen court programs. All Professional School Counselors and SAS counselors will be trained yearly in conflict resolution methods.</p> <p>Strategy's Expected Result/Impact: 100% of counselors and police officers will be trained in conflict resolution methods.</p> <p>Staff Responsible for Monitoring: Chief of Police, Guidance and Counseling</p> <p>Funding Sources: - Local, - State Comp Ed</p>	Formative			Summative
	Oct	Jan	Mar	May

Strategy 4 Details	Reviews			
<p>Strategy 4: ECISD does not tolerate dating violence. Any student who has experienced dating violence or believes another student has experienced dating violence should immediately report to a teacher, school counselor, principal, police officer or other district employee. Any District employee who has direct or indirect knowledge of dating violence shall notify the District official and the ECISD police. Parents will be immediately notified. Students are made aware of the process of the choice filing charges and given referrals for safety and mental health. Programs that address harassment and dating violence will be offered to students. ECISD Police Officers will be trained in current law and investigation tactics (including social media investigations) concerning dating violence.</p> <p>Strategy's Expected Result/Impact: Students in all grades will be offered age appropriate guidance lessons concerning harassment and dating violence through school counselors and community partners. Human Growth and Development will also embed healthy relationship training. Training records will be maintained to ensure populations served.</p> <p>Staff Responsible for Monitoring: Police Chief, Guidance and Counseling</p> <p>Funding Sources: - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 5 Details	Reviews			
<p>Strategy 5: The ECISD comprehensive Guidance and Counseling curriculum, in alignment with Texas Counseling Association Model for the Comprehensive Guidance and Counseling Program and the American School Counselor Association National Model, will be monitored for implementation with fidelity in PK-12 to include: anti-bullying, character education, child abuse, college and career planning/advising, conflict resolution, cyberbullying, dating violence/violence prevention, drop-out prevention, human trafficking, mental health/ mental health warning signs, substance abuse, suicide prevention, decision making, self-efficacy, and other social-emotional topics. *Campuses will utilize the providers as listed on the Legal Essentials Checklist.</p> <p>Strategy's Expected Result/Impact: Monthly reports will indicate alignment with program expectations.</p> <p>Staff Responsible for Monitoring: Guidance and Counseling, Campus Principals</p> <p>Funding Sources: - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
				690
Strategy 6 Details	Reviews			
<p>Strategy 6: Mental health awareness training will be provided to all staff on the topics of Trauma and Grief Informed Schools, Trauma-informed Behavior management plans, and the promotion of resiliency through SafeSchools.</p> <p>Strategy's Expected Result/Impact: Staff will be better able to respond to students' needs in a trauma-informed approach.</p> <p>Staff Responsible for Monitoring: Talent Development, Executive Director of Guidance and Counseling, Director of Guidance and Counseling</p> <p>Funding Sources: - State Comp Ed, - Local</p>	Formative			Summative
	Oct	Jan	Mar	May

Strategy 7 Details	Reviews			
<p>Strategy 7: First Responders will improve communication, coordinate services between agencies, establish and enhance safety mechanisms for students, staff, and faculty in their response to a critical incident. All SAS and school counselors will be trained in Critical Incident Stress Management. Training will also be provided to counselors, nurses and social workers in Mental Health First Aid.</p> <p>Strategy's Expected Result/Impact: Critical Incident impact will be reduced due to timely communication and prevention measures trained and implemented prior to the incident.</p> <p>Staff Responsible for Monitoring: Police Dept., Nursing and Health Services, Guidance and Counseling, Community Outreach Center</p> <p>Funding Sources: Additional door barriers for classrooms - Title IV, - State Comp Ed</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 8 Details	Reviews			
<p>Strategy 8: All ECISD school administrators will be trained on Chapter 37 of the Texas Education Code, including Chapter 37.0832 (Bullying). Administrators will use the ECISD Administrator's Anti-Bullying Toolkit and the Checklist for Responding to Reports of Bullying/Harassment to ensure the investigation process is followed and the appropriate parental communication, intervention, disciplinary consequences, mediation, etc., is implemented.</p> <p>Strategy's Expected Result/Impact: By the end of 2024-2025 school year, 60% of students will respond favorably to the fact "At your school, how much does the behavior of other students hurt or help your learning?" as measured by the EOY 2025 Panorama student survey. Timely response and resolution to all bullying reports to mitigate bullying.</p> <p>Staff Responsible for Monitoring: Executive Directors of Leadership</p>	Formative			Summative
	Oct	Jan	Mar	May
				691
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.





Performance Objective 10: ECISD will invest in research and program evaluation to drive best-practices and continued progress in education and guide the development of new tools and technologies aligned to district and campus needs.

Indicators of Success:

Growth (STAAR) - % of students who meet or exceed the STAAR progress measure - 2024 Goal: 75%, Growth (MAP) - % of student end of year RIT score met or exceeded individual growth projections based upon MAP - 2024 Goal: 58%, Academic Gaps - The performance of ECISD student subgroups compared to their peers across the state of Texas (Domain 3) - 2024 Goal: 51%, 3rd Grade Composite (reading and math) - % of 3rd grade students achieving the meets or exceeds standard in both reading and math on STAAR - 2024 Goal: 35%, 6th grade reading or math on grade level - % of 6th grade students achieving the meets or exceeds standard in reading or math on STAAR - 2024 Goals: Reading - 37%, Math - 47%, 8th grade reading or math on grade level - % of 8th grade students achieving the meets or exceeds standard in reading or math on STAAR - 2024 Goal: Reading - 55%, Math - 55%, English I and Algebra I college ready - % of English I and Algebra I testers achieving the meets or exceeds standard on STAAR EOC - 2024 Goal: Eng I - 50%, Alg I - 61%, College, Career, and Military Readiness - % of current seniors meeting at least one accountability indicator by the fall of their senior year - 2024 Goal: 27%, School Connectedness - The belief held by students that adults and peers in the school care about their learning as well as about them as individuals - 2024 Goal: 63%

Evaluation Data Sources: Internal and External Research; Program Evaluations





Strategy 1 Details	Reviews 692			
<p>Strategy 1: ECISD will invest in mechanisms to make evidence-based practices consistently utilized within the district to support campus and student needs. Develop, refine, and implement processes for internal and external research conducted in ECISD.</p> <p>Strategy's Expected Result/Impact: Research conducted will align to the district's vision, Board goals, and Indicators of Success will provide information that supports continuous district improvement. Evidence of research will be shared and analyzed to improve practices, improve learner outcomes, and identify duplication of efforts to enable effective and efficient practices.</p> <p>Staff Responsible for Monitoring: Executive Director of Research, Evaluation, and Assessment</p> <p>Funding Sources: Outside consultant to support the creation of the Research and Evaluation division in the REA Department - Local, Technology needs (i.e., programs and/or software) for R&E - Title One School- Improvement</p>	Formative			Summative
	Oct	Jan	Mar	May

Strategy 2 Details	Reviews			
<p>Strategy 2: Develop a framework for program evaluation in ECISD. Locally generated program evaluations for currently implemented programs aligned to the Strategic Plan. Locally generated evidence of program effectiveness and feasibility obtained through pilot, demonstration, or experimental projects, or through initial introduction in a limited number of sites.</p> <p>Strategy's Expected Result/Impact: Local, state, and federal program implementation will be evaluated by the research and evaluation department on a rotational and annual basis.</p> <p>Staff Responsible for Monitoring: Executive Director of Research, Evaluation, and Assessment</p> <p>Results Driven Accountability</p> <p>Funding Sources: Accountability consultant to ensure alignment with program evaluation and student needs - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.

Performance Objective 11: Develop a comprehensive communication plan based on the priorities identified in ECISD's Strategic Plan, The Future is Now.





Evaluation Data Sources: Superintendent Staying Connected visits will continue throughout 2024-2025. Principal Advisory Groups meet with the superintendent. Student Advisory group also meets with the superintendent. There are weekly press briefings with local reporters. ECISD also regularly uses social media, and we are engaged in a communications audit, which will identify strengths and areas of opportunity within the communications department. Recommendations will be provided for improvement. Events like convocation and State of the District allow ECISD to share and personally engage the community.

Strategy 1 Details	Reviews			
<p>Strategy 1: Saturate the Ector County ISD market with key initiatives of the plan. Provide all district and campus leaders with support materials (scripts, fliers, logos). Coordinate online and in-person information sessions for all staff, and develop District ambassadors. Host community and media opportunities to celebrate victories in pursuing each of the Plan's objectives and goals.</p> <p>Strategy's Expected Result/Impact: Staff and community will understand the goals of the strategic plan.</p> <p>Staff Responsible for Monitoring: Communications Department</p>	Formative			Summative
	Oct	Jan	Mar	May
				694
Strategy 2 Details	Reviews			
<p>Strategy 2: Federal & State programs will provide opportunities via web postings, email communications and surveys to provide information and collect feedback from our parents, staff and community in order to extend our reach to our stakeholders, promote transparency and leverage feedback in the planning and using of funds for Every Student Succeeds Act (ESSA).</p> <p>Strategy's Expected Result/Impact: Through web postings, emails, and surveys our community will have the opportunity to provide input for how funds are allocated with ESSA programs.</p> <p>Staff Responsible for Monitoring: Executive Director of Federal & State programs</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.

Performance Objective 12: Grow community partnerships that promote excellence in our schools.





Evaluation Data Sources: Education Partnership of the Permian Basin has two action teams that are working to improve education across the Permian Basin with a focus on middle school engagement and early childhood literacy; The Education Foundation is working on the same areas as the Partnership specific to ECISD; Active partners providing funding for broadband internet connectivity (local providers, wireless access points, SpaceX); monetary support via CARES Act funding from City of Odessa and Ector County Commissioners illustrates new level of collaboration among local governing entities; multi-year, multi-million dollar grant from Permian Strategic Partnership to fund National Board Certification process for ECISD teachers; Opportunity Culture partnership includes Public Impact, Midland ISD, UTPB, and Gates Foundation for advancement/pay opportunities for teachers; monetary support from individuals, businesses and foundations to drive the district's strategic plan; partnerships continuing to grow with local businesses to provide incentives to students and teachers; volunteer engagement

Strategy 1 Details	Reviews			
Strategy 1: Intentionally engage the community to increase awareness and opportunities for lasting partnerships. Will utilize four main approaches: Research and Collaboration; Create Awareness of Needs; Active Outreach; and Grant Writing. Staff Responsible for Monitoring: Education Foundation Director Communications Officer	Formative			Summative
	Oct	Jan	Mar	May
				695
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.

Performance Objective 13: School leaders will improve instructional leadership systems and practices through personalized professional learning and targeted coaching and feedback resulting in improved student learning outcomes.





Evaluation Data Sources: MAP data
 STAAR data
 Observation and Feedback data

Strategy 1 Details	Reviews			
<p>Strategy 1: Partner with external educational consultants to provide targeted instructional leadership professional development and coaching and feedback based on individual school and school leaders' needs.</p> <p>Strategy's Expected Result/Impact: Improved instructional leadership systems and practices Effective tier 1 instructional practices</p> <p>Staff Responsible for Monitoring: Director of Leadership Executive Directors of Leaders Chief of Schools</p>	Formative			Summative
	Oct	Jan	Mar	May
				696
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 1: Through foundational excellence, talent development and the learning journey, the percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.

Performance Objective 14: Schools leaders will engage in professional learning to ensure effective restorative practices are implemented to increase attendance and engagement, resulting in improved student learning.

Evaluation Data Sources: MAP data
STAAR data
Panorama Survey data

Strategy 1 Details	Reviews			
<p>Strategy 1: Assistant Principals will engage in monthly professional learning focused on best practices for school culture and instructional leadership.</p> <p>Strategy's Expected Result/Impact: Reduce disciplinary infractions Improved attendance rate Improved student learning and growth</p> <p>Staff Responsible for Monitoring: Director of Leadership Executive Directors of Leadership Chief of Schools</p>	Formative			Summative
	Oct	Jan	Mar	May
				697
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 2: Through foundational excellence, talent development and the learning journey, the percentage of 3rd grade students reading at or above grade level will increase from 35% to 45% by May 2024.

Performance Objective 1: In 2024-25, ECISD will offer a job-embedded, personalized professional learning system for teachers and administrators.

HB3 Board Goal

Evaluation Data Sources: Learning Management System (LMS)





Employee Performance Evaluations

Staff Retention Rates

Eduphoria STRIVE

Staff Exit Survey Data





Strategy 1 Details	Reviews			
<p>Strategy 1: The Talent Development Department will focus on retaining staff through intentional and personalized support and professional learning 2024-2025.</p> <p>Strategy's Expected Result/Impact: Increase staff retention; improve employee effectiveness; develop career pathways.</p> <p>Staff Responsible for Monitoring: Executive Director of Talent Development</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: Staff salaries, equipment, supplies and contracted services - Title Two Professional Development, Salaries, equipment, supplies and contracted services - Local, Harvard Fellow, Research & Development director - Title IV, Staff salaries for district instructional specialist, Bilingual/ ESL specialist and staff, and campus instructional coaches - State Comp Ed, Staff salaries for district instructional specialist, and campus instructional coaches - Title Two Professional Development, Staff salaries for district instructional specialists, and campus instructional coaches - Title One School-wide</p>	Formative			Summative
	Oct	Jan	Mar	May
				698
Strategy 2 Details	Reviews			
<p>Strategy 2: Implement a quality Mentor Model that supports and engages new teachers and principals 2024-2025.</p> <p>Strategy's Expected Result/Impact: Improved staff retention; improve employee effectiveness; develop career pathways</p> <p>Staff Responsible for Monitoring: Executive Director of Talent Development</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: Resources needed for implementation include: Mentor Program, mentor stipends, release time, and supplies - Local</p>	Formative			Summative
	Oct	Jan	Mar	May

Strategy 3 Details	Reviews			
<p>Strategy 3: Train and support a standardized coaching model for ECISD that will increase the instructional capacity of our staff through a personalized and tiered approach.</p> <p>Strategy's Expected Result/Impact: Teachers and principals are the primary influencers of student outcomes. With an increase in teacher/leader capacity, a minimum of 54% of ECISD students should meet or exceed their EOY growth projections as measured by the NWEA MAP Assessment.</p> <p>Staff Responsible for Monitoring: Principal Supervisors, Executive Director of Talent Development, EDs of C&I</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: Training and job-embedded support from Relay, TNTP, and Big Rock Education Service Center - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 4 Details	Reviews			
<p>Strategy 4: ECISD will design a system of personalized professional learning which embeds the knowledge, skills, and competencies required for teachers and leaders to provide personalized learning for students through:</p> <ol style="list-style-type: none"> 1. Content Learning which offers teachers choices and differentiated opportunities 2. Texas Reading Academies K-3 - Cohort 3 - and continuing as the state requires. 3. Advanced Academics NMSI Grant Laying the Foundation - Year 4 <p>Strategy's Expected Result/Impact: Teachers will have choice in professional learning and district will have differentiated opportunities for novice teachers through master teacher levels.</p> <p>Staff Responsible for Monitoring: Director of Professional Learning, C&I Division</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: Texas Reading Academies - State Early Education Allotment, Math Solutions - Title One School-wide, Advanced Academics - Donated Funds</p>	Formative			Summative
	Oct	Jan	Mar	May
				699
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 2: Through foundational excellence, talent development and the learning journey, the percentage of 3rd grade students reading at or above grade level will increase from 35% to 45% by May 2024.

Performance Objective 2: ECISD will provide strategic staffing and compensation systems during 2024-2025.





Evaluation Data Sources: Staffing models
Equity Plan
Opportunity Culture
Teacher Incentive Allotment designations
Staffing/Payroll Reports

Strategy 1 Details	Reviews			
<p>Strategy 1: Expand Opportunity Culture to extend the reach of excellent teachers and their teams during 2024-2025. Strategy's Expected Result/Impact: Improve student outcomes; improve teacher retention and effectiveness; eliminate teacher vacancies; increase teacher pipeline; provide differentiated compensation. Staff Responsible for Monitoring: Human Capital, Results Driven Accountability - Equity Plan Funding Sources: Resources needed for compensation - Local, Resource needed for training and sustainability of Opportunity Culture - Donated Funds, OC Campus staff stipends - State Comp Ed, OC Campus staff stipends - Title One School- Improvement</p>	Formative			Summative
	Oct	Jan	Mar	May
				700
Strategy 2 Details	Reviews			
<p>Strategy 2: Develop and implement the TEA Teacher Incentive Allotment Plan 2024-2025. Strategy's Expected Result/Impact: Increase teacher recruitment and retention of highly effective teachers. Staff Responsible for Monitoring: Executive Director of Human Resources, Finance Results Driven Accountability - Equity Plan Funding Sources: Resources for development and implementation of the Teacher Incentive Allotment - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
<p style="text-align: center;">  No Progress  Accomplished  Continue/Modify  Discontinue </p>				

Board Goal 2: Through foundational excellence, talent development and the learning journey, the percentage of 3rd grade students reading at or above grade level will increase from 35% to 45% by May 2024.

Performance Objective 3: ECISD will assist and support staff in acquiring the National Board for Professional Teaching Standards during 2024-2025.

Evaluation Data Sources: Number of candidates for the National Board Certification
 Number of National Board Components submitted for Consideration

Strategy 1 Details	Reviews			
<p>Strategy 1: Identify teachers and support them through the National Board Professional Teaching Standards process. Strategy's Expected Result/Impact: Improve student outcomes; improve teacher retention and effectiveness. Staff Responsible for Monitoring: Executive Director of Human Resources and Executive Director of Talent Development</p> <p>Results Driven Accountability - Equity Plan Funding Sources: Resources needed for supporting the process - Donated Funds, Resources needed for supporting the process - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
				701
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				





Board Goal 2: Through foundational excellence, talent development and the learning journey, the percentage of 3rd grade students reading at or above grade level will increase from 35% to 45% by May 2024.

Performance Objective 4: ECISD will cultivate current and potential pipelines for the selection and development of quality people during 2024-2025.

Evaluation Data Sources: Recruitment data
Enrollment and completion data from all pipelines

Strategy 1 Details	Reviews			
<p>Strategy 1: In 2024-2025 ECISD will optimize "Grow Our Own" programs and pipelines.</p> <p>Strategy's Expected Result/Impact: Increase quantity and quality of candidates. Increase interest in potential roles within the educational system.</p> <p>Staff Responsible for Monitoring: Executive Director of Human Resources; Executive Director of Talent Development; Executive Director of Guidance and Counseling, Director of Guidance and Counseling, Executive Director CTE</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: Resources to support pipeline development and recruitment efforts - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
				702
Strategy 2 Details	Reviews			
<p>Strategy 2: Utilize innovative recruitment practices to meet current and future needs.</p> <p>Strategy's Expected Result/Impact: Increased candidate pool</p> <p>Staff Responsible for Monitoring: Executive Director of Human Resources and Executive Director of Talent Development</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: Resources needed for branding, marketing and recruitment - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 3 Details	Reviews			
<p>Strategy 3: Establish the District as an Education Preparation Program (EPP).</p> <p>Strategy's Expected Result/Impact: Increase candidate pool</p> <p>Staff Responsible for Monitoring: Executive Director of Human Resources and Executive Director of Talent Development</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: Resources needed to implement EPP - Local, Talent Development coaches dedicated to support new teachers & build capacity - Title Two Professional Development</p>	Formative			Summative
	Oct	Jan	Mar	May

Strategy 4 Details	Reviews			
<p>Strategy 4: Collaborate with Institutions of Higher Education (IHE) and Alternative Certification Programs to match program practices to district needs.</p> <p>Strategy's Expected Result/Impact: Improve quality of candidates</p> <p>Staff Responsible for Monitoring: Executive Director of Talent Development and Executive Director of Human Resources</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: Time allocated for governance/partnership meetings - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 5 Details	Reviews			
<p>Strategy 5: Identify talent and intentionally build leadership capacity in highly effective teachers. (ECISD Emerging Leadership Academy)</p> <p>Strategy's Expected Result/Impact: Increase quality and preparedness of candidates for our assistant principal bench</p> <p>Staff Responsible for Monitoring: Executive Director of Talent Development</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: Stipend for Aspiring Leader in charge of the Academy (\$3,000) and TNTP curriculum support (\$15,000) - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
				703
Strategy 6 Details	Reviews			
<p>Strategy 6: Identify talent and intentionally build leadership capacity in highly effective assistant principals. (ECISD Aspiring Principals Academy)</p> <p>Strategy's Expected Result/Impact: Increase quality and preparedness of candidates for our assistant principal bench</p> <p>Staff Responsible for Monitoring: Executive Directors of Leadership and Director of Leadership</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: TNTP curriculum support - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 7 Details	Reviews			
<p>Strategy 7: Launch a principal residency program to prepare ECISD's highest-potential teachers to earn the certifications and job-embedded experiences to become top-performing campus leaders.</p> <p>Strategy's Expected Result/Impact: Intentionally expanding the assistant principal bench with vision-aligned and highly skilled internal candidates.</p> <p>Staff Responsible for Monitoring: Executive Directors of Leadership and Executive Director of Talent Development</p> <p>Funding Sources: Stipend for each Principal Fellow - Local, Tuition, books, fees - State Grant</p>	Formative			Summative
	Oct	Jan	Mar	May

Strategy 8 Details	Reviews			
<p>Strategy 8: Athletic department will begin an Aspiring Head Coaches Academy to increase the learning processes in becoming a head coach.</p> <p>Strategy's Expected Result/Impact: Retain coaches to the district Better prepare a coach for the management and leadership of an athletic sports program</p> <p>Staff Responsible for Monitoring: Athletic Directors-Athletic Department</p> <p>Equity Plan</p>	Formative			Summative
	Oct	Jan	Mar	May
<p style="text-align: center;">  No Progress  Accomplished  Continue/Modify  Discontinue </p>				





Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.

Performance Objective 1: ECISD will develop a plan to increase the number of students who are Kindergarten ready and who are on grade level by grade 3.

Indicators of Success:

Growth (MAP) - % of student end of year RIT score met or exceeded individual growth projections based upon MAP - 2024 Goal: 58%

Evaluation Data Sources: mClass, MAP Growth Assessment, Dyslexia Screener Kinder and 1st grade





Strategy 1 Details	Reviews			
<p>Strategy 1: ECISD will strengthen the instruction in PreK through 2nd-grade classrooms by supporting the campus leaders and campus coaches on the instructional framework implementation, through observation/feedback coaching.</p> <p>Strategy's Expected Result/Impact: % of 3rd-grade students achieving the meets or exceeds level in both reading and math on STAAR will increase from (?)% in 2022 to 31% in 2023.</p> <p>Staff Responsible for Monitoring: Campus Leadership, EDs of Leadership, Campus Coaches, C&I Specialists, Content Coordinators, Talent Development, EDs of C&I</p> <p>Funding Sources: Instructional coaches - Title One School-wide, Instructional coaches - Title Two Professional Development</p>	Formative			Summative
	Oct	Jan	Mar	May
				705
Strategy 2 Details	Reviews			
<p>Strategy 2: ECISD will expand their half-day PreK 3-year-old program in the Fall of 2024 within our 1882 partnership, the Odessa YMCA, with an expected enrollment of 300 students</p> <p>Strategy's Expected Result/Impact: MClass data will show the percent of students who are Kindergarten Ready will increase from 46% to 65% by 2024</p> <p>Staff Responsible for Monitoring: Director of Early Childhood Education, Executive Director of Curriculum and Instruction</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.

Performance Objective 2: ECISD will implement innovative instructional models which enable personalized learning for all students.

Strategy 1 Details	Reviews			
<p>Strategy 1: ECISD will implement assessment models that ensure teachers and students are able to monitor their learning and growth. Assessment models will include the following: MAP Growth Assessments Formative Assessments Aggressive Monitoring</p> <p>Strategy's Expected Result/Impact: Increased student outcomes for all grades and content areas by 10% each school year.</p> <p>Staff Responsible for Monitoring: Executive Director of Assessment, Campus Coaches</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: NWEA Map Growth - Local, Double Blocked classes for remediation, Tutoring, Summer programs, Supplemental materials, assessments, software fees and contracts - State Comp Ed, Social Workers, SAS Counselors, Communities in schools - State Comp Ed</p>	Formative			Summative
	Oct	Jan	Mar	May
				706

Strategy 2 Details	Reviews			
<p>Strategy 2: ECISD will implement year one work for establishing the foundation for personalized learning all students, teachers, campus leaders and district leaders. The strategies include the following: Blended Learning Balanced Literacy Develop competencies for students, teachers, and leaders for personalized learning</p> <p>Strategy's Expected Result/Impact: % of students' EOY RIT scores met or exceeded the individual growth projects on MAP will increase from 54% in 2022 to 56% by Spring 2023. % of 3rd-grade students achieving the meets or exceeds level in both reading and math STAAR will increase from 28% in 2022 to 31% in Spring 2023. % of 6th-grade students achieving in the meets or exceeds level in reading and math on STAAR will increase from 29% reading in 2022, 33% math in 2022 to 30% in reading, and 39% in math by Spring 2023. % of 8th-grade students achieving the meets or exceeds level in reading or math on STAAR will increase from 41% reading in 2022, 35% math in 2022 to 47% reading, and 45% math by Spring 2023.</p> <p>Staff Responsible for Monitoring: Digital Learning Director, Blended Learning Coordinator, C&I Division, Campus Leadership, Campus Coaches</p> <p>Results Driven Accountability - Equity Plan Funding Sources: Implementation of learning models - State Comp Ed, Blended Learning Grant - State Blended Learning Grant, Instructional Specialists - Title One School-wide, Bilingual Instructional Team, Instructional Resources and Supplies - State Comp Ed, Instructional Specialists, Reading Coaches, & Dyslexia Program - State Comp Ed, Dyslexia Program - State Dyslexia Allotment</p>	Formative			Summative
	Oct	Jan	Mar	May
				707
Strategy 3 Details	Reviews			
<p>Strategy 3: ECISD will implement Professional Learning Communities (PLC) where teams implement the Data-Driven Instructional process, develop TEKS knowledge (Know/Show charts), and plan for student mastery of learning objectives.</p> <p>Strategy's Expected Result/Impact: Higher level of teacher capacity and understanding of content resulting increasing student outcomes by 10% in all content areas each year.</p> <p>Staff Responsible for Monitoring: Campus principals, EDLs, C&I Division</p> <p>Results Driven Accountability - Equity Plan Funding Sources: PLC implementation and DDI process - Relay funded by TEA - Donated Funds</p>	Formative			Summative
	Oct	Jan	Mar	May





Strategy 4 Details	Reviews			
<p>Strategy 4: ECISD will continue with high-impact tutoring to provide quality accelerated instruction for students K-12.</p> <p>Strategy's Expected Result/Impact: Increase the students' growth RIT on NWEA Map and students working on grade level by 10%.</p> <p>Staff Responsible for Monitoring: ED of C&I, High-Impact Tutoring Coordinator, Campus Leadership, EDs of Leadership</p> <p>Results Driven Accountability</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 5 Details	Reviews			
<p>Strategy 5: ECISD will implement full-day summer learning for our PK4 - 5th-grade students.</p> <p>Strategy's Expected Result/Impact: Increase students' growth RIT on NWEA Map reading and math by 2 RIT growth points.</p> <p>Staff Responsible for Monitoring: ED of C&I, Summer Learning Principals, High-Impact Coordinator</p> <p>Funding Sources: Teachers and Administrators - Title One School-wide, Teachers and Administrators - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				708

Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.

Performance Objective 3: ECISD will utilize SEL focused strategies to increase college, career and military readiness.

Evaluation Data Sources: Attendance data, drop out data, graduation rates

Strategy 1 Details	Reviews			
<p>Strategy 1: SEL support will be provided through various methodologies to ensure psycho-social barriers are removed for students struggling with attendance, academic progress, and at risk situations.</p> <p>Strategy's Expected Result/Impact: Increased attendance by 0.5% and credit acquisition</p> <p>Staff Responsible for Monitoring: Director of Community Support Services, Executive Director of Guidance and Counseling, Director of Guidance and Counseling, SEL Coordinator</p> <p>Funding Sources: CCVYP, Communities in Schools, SAS/ Drop Out Prevention Counselors, Social Workers, Teen Parent Services, Truancy Court, Communities in Schools - State Comp Ed, SEL Director, Social Workers, Programs targeting Well Rounded & Safe Schools - Title IV</p>	Formative			Summative
	Oct	Jan	Mar	May
				700
Strategy 2 Details	Reviews			
<p>Strategy 2: Students not meeting discipline expectations at the campuses, will have the opportunity to continue their education at grade appropriate alternative campuses when appropriate to continue their education.</p> <p>Strategy's Expected Result/Impact: Students will continue to receive instruction, complete credits and be on target to graduate or pass to the next grade level</p> <p>Staff Responsible for Monitoring: Executive Directors of Leadership, DAEP and campus administration</p> <p>Funding Sources: DAEP program costs, Transition services, SAS counselors - State Comp Ed, Guidance Counselor - Title One D, Subpart 2, Delinquency Services, Guidance Counselor - Title One School-wide</p>	Formative			Summative
	Oct	Jan	Mar	May

Strategy 3 Details	Reviews			
<p>Strategy 3: ECISD athletic department has implemented 2Words Character Development for coaches and athletes to go beyond the game. The 2Words Character Development program is built on the core principles of integrity, belief, toughness, relentless effort, excellence, and servant leadership. 2Words is one of the top character development programs in Texas. It has become the official character development curriculum of the Texas High School Coaches Association (THSCA). The goal of the curriculum is to help coaches tackle the biggest issues facing them and their students today.</p> <p>Strategy's Expected Result/Impact: Equip students, coaches, and parents with essential tools that will enable a strong emphasis of character development which aims to support next level readiness that closely aligns with our district wide SEL curriculum.</p> <p>Staff Responsible for Monitoring: Athletic Department</p> <p>Equity Plan</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.

Performance Objective 4: ECISD will create systems that support all graduating seniors to and through college, career and military decisions.


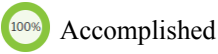
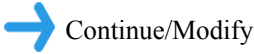

HB3 Board Goal

Evaluation Data Sources: National Student Clearinghouse Postsecondary enrollment, completion
State accountability CCMR data reports (TEA trackers and verifiers)

Strategy 1 Details	Reviews			
<p>Strategy 1: Implement while continuously creating, monitoring, and improving systems to *monitor, **track, and ***support ECISD alumni through post secondary and 6 years beyond.</p> <p>Strategy's Expected Result/Impact: *Alumni will be monitored through ACCESS and Naviance participation and cooperation, efforts will be made to host Alumni events twice a year. ACCESS and Naviance digital platforms will be used to support ECISD alumni through increased opportunity knowledge, life lessons, and connections to inquire along the journey. Participation by Alumni will increase by 5%. **35% of students will complete post-secondary degree or certification program tracked through National Clearing House. ***The class of 2022 will be supported and involved into the FAB (Foundation and Beyond) efforts to support individual alumni. All alumni will be invited to post videos to create a resource in ACCESS for all current ECISD students. the FAB Project to allow students to opt into the coaching/mentoring system after high school graduation. We will establish a baseline with the Class of 2022.</p> <p>Staff Responsible for Monitoring: Executive Director of Guidance and Counseling, Director of Guidance and Counseling, Post Secondary Coordinator</p>	Formative			Summative
	Oct	Jan	Mar	May
	<p style="text-align: center;">711</p>			
Strategy 2 Details	Reviews			
<p>Strategy 2: Develop a comprehensive plan to assist students in identifying and enrolling in a CCMR pathway beginning their junior year of high school through college graduation, career onboarding, or military commitment.</p> <p>Strategy's Expected Result/Impact: Percentage of students enrolling in Post-Secondary programs will increase by 10% . ***95% of AVID Senior students will meet CCMR expectations and will be accepted into post-secondary choice while we will increase the number of AVID Junior class meeting CCMR expectations by 10%.</p> <p>Staff Responsible for Monitoring: Director of AVID, Executive Director of CTE, Executive Director of Guidance and Counseling, Director of Guidance and Counseling, Post Secondary Coordinator</p> <p>Funding Sources: AVID program needs to include contracts, supplies and payroll - State Comp Ed</p>	Formative			Summative
	Oct	Jan	Mar	May

Strategy 3 Details	Reviews			
<p>Strategy 3: Continue to build strategic and intentional partnerships between ECISD and Institutes of Higher Education (IHE) to collectively support students through their senior year and beyond high school graduation in efforts to complete financial aid.</p> <p>Strategy's Expected Result/Impact: Increase FAFSA and TASFA completion rates by 35%. AVID Elective will maintain at least 95% completion. Enrollment Percent supported in Strategy 3. Persistence data supported in Strategy 1</p> <p>Staff Responsible for Monitoring: Executive Director of Guidance and Counseling, Director of Guidance and Counseling, Post Secondary Coordinator, Director of AVID</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 4 Details	Reviews			
<p>Strategy 4: Junior and Senior students will be surveyed yearly to assess post-secondary College, Career and Military plans. All students will be given the opportunity to take the ASVAB at least once between grades 10-12. CCMR data will be provided by Information Systems twice a year.</p> <p>Strategy's Expected Result/Impact: All Junior and Senior students will complete surveys in Naviance, and students will be given the opportunity to take the ASVAB.</p> <p>Staff Responsible for Monitoring: Executive Director of CTE, Executive Director of Guidance and Counseling, Director of Guidance and Counseling, Post Secondary Coordinator</p> <p>Funding Sources: - Local</p>	Formative			Summative
	Oct	Jan	Mar	May
				712
Strategy 5 Details	Reviews			
<p>Strategy 5: Students not meeting Texas Success Initiative readiness will be enrolled in the College Prep English Language Arts and/or College Prep Math courses. Campuses will offer the TSIA to all Juniors and Seniors and to all Freshmen and Sophomores as needed for College Career Military Readiness. Texas College Bridge online will be used to build college readiness for students who have not been successful in TSI. Texas College Bridge exempts students from the TSI for 24 months and provides CCMR bonus points.</p> <p>Strategy's Expected Result/Impact: 2023 graduates meeting the TSIA requirements will increase by 5%.</p> <p>Staff Responsible for Monitoring: Curriculum Department, Campus Administrators, Executive Director of Guidance and Counseling, Director of Guidance and Counseling, Post Secondary Coordinator</p> <p>Funding Sources: - Local</p>	Formative			Summative
	Oct	Jan	Mar	May





Strategy 6 Details	Reviews			
<p>Strategy 6: Middle school through high school students, parents, counselors and teachers will be provided information annually concerning dual credit, higher education admissions, financial aid, TEXAS grant, and TEACH for TEXAS grant to guide their decisions on course selections.</p> <p>Strategy's Expected Result/Impact: Documentation of completion will be required and submitted to Guidance and Counseling Department.</p> <p>Staff Responsible for Monitoring: Campus Administration, Executive Director of Guidance, Counseling and Wellness, Director of Guidance and Counseling, Post Secondary Coordinator</p> <p>Funding Sources: - Local</p>	Formative			Summative
	Oct	Jan	Mar	May

Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.

Performance Objective 5: Students achieving the AP/IB passing standard will increase from 42 to 47 % by May 2025.





Evaluation Data Sources: 1022-2023 State Accountability
2022-2023 College Board AP Scores Report

Strategy 1 Details	Reviews			
<p>Strategy 1: The Advanced Academic Services Department in conjunction with the AP Campus Coordinator will support AP/IB Teachers in accessing webinars/training from the College Board, TIBS, and NMSI regarding AP and IB resources for the 2024-2025 school year.</p> <p>Strategy's Expected Result/Impact: Increased support for teachers as well as students by utilizing the College Board resources will yield an increase in AP exam results.</p> <p>Staff Responsible for Monitoring: Advanced Academic Department, Content Coordinators, Curriculum Department, Campus Administration, AP/IB Campus Coordinator</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 2 Details	Reviews			
<p>Strategy 2: The Advanced Academic Services Department Specialist will work in conjunction with Curriculum and Instruction to provide job-embedded support and training for Honors teachers to ensure rigorous vertical alignment.</p> <p>Strategy's Expected Result/Impact: An aligned Scope and Sequence for Honors Core courses will support Advanced Placement courses to yield an increase in threes, fours, and fives on AP exams</p> <p>Staff Responsible for Monitoring: Advanced Academic Department, Content Coordinators, Curriculum Department</p>				714
	Formative			Summative
	Oct	Jan	Mar	May
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Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.

Performance Objective 6: 11th/12th Grade students achieving the PSAT/NMSQT/SAT benchmark will increase from __31% to _36% by May 2025.





Evaluation Data Sources: 2023 College Board Report

Strategy 1 Details	Reviews			
<p>Strategy 1: Advanced Academic Services Department will offer an SAT Bootcamp in the summer and SAT/PSAT Bootcamp fall of 2024 for the top 80 incoming juniors/seniors based on their 10th-grade PSAT scores.</p> <p>Strategy's Expected Result/Impact: SAT Bootcamp is scheduled for summer 2023. The expected result of higher SAT students meeting the benchmark.</p> <p>Staff Responsible for Monitoring: AAS Dept., Communications Dept.</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.

Performance Objective 7: ECISD will focus on recovering and reengaging students who have dropped out of school.

Evaluation Data Sources: Attendance data, drop out data and credit recovery

Strategy 1 Details	Reviews			
<p>Strategy 1: Provide a drop out recovery program that allows for flexible scheduling, a smaller learning environment and additional tutoring to help Title 1 Pt. A (McKinney Vento Homeless) and English Learners who have dropped out previously.</p> <p>Strategy's Expected Result/Impact: Title 1 Pt. A (McKinney Vento Homeless) and English Learner graduation rate will increase to 80%.</p> <p>Staff Responsible for Monitoring: Director of Community Support Services</p> <p>Results Driven Accountability</p> <p>Funding Sources: Personnel, supplemental program materials - State Comp Ed</p>	Formative			Summative
	Oct	Jan	Mar	May
				716
Strategy 2 Details	Reviews			
<p>Strategy 2: ECISD will partner with Acceleration Academy, credit recovery/drop-out program, in order to decrease the drop-out rate and increase the graduation rate for the district.</p> <p>Strategy's Expected Result/Impact: 70% of students enrolled in the Acceleration Academy will matriculate to graduation. 95% of students enrolled in the Acceleration Academy will meet the CCMR requirement.</p> <p>Staff Responsible for Monitoring: Student and School Support Team, Executive Director of Guidance, Counseling and Wellness, Director of Guidance and Counseling</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				


Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.


Performance Objective 8: Students identified as Other Special Populations (OSP - MV Homeless, Foster and Military-Connected) youth will be prioritized and receive additional services designed to increase academic performance, specifically targeting 8th grade Social Studies and decrease dropout rates.

Evaluation Data Sources: Attendance data
Dropout lever codes
Credits Earned

Strategy 1 Details	Reviews			
<p>Strategy 1: Community Outreach Center (COC) social workers and specialists and Communities in Schools (CIS) will provide interventions to help remove barriers to school attendance and success. Interventions will be systematically applied and documented in Eduphoria or in the OSP MV documentation sheets.</p> <p>Strategy's Expected Result/Impact: Psycho social barriers will be removed so student attendance will be expected to increase to 94%.</p> <p>Staff Responsible for Monitoring: Director of Community Support Services; Division of School Support</p> <p>Funding Sources: Communities in Schools contract, Community outreach social workers, drop out prevention counselors - State Comp Ed</p>	Formative			Summative
	Oct	Jan	Mar	May
				717
Strategy 2 Details	Reviews			
<p>Strategy 2: COC staff will provide direct interventions to 70% of parents of students with 10 or more unexcused absences and those students on the dropout list.</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 3 Details	Reviews			
<p>Strategy 3: All elementary through middle school campuses will document their interventions for social studies and drop outs through various methods, such as PLC's, tutoring groups, software, social services and counseling their efforts to close the achievement gaps in social studies and drop outs.</p> <p>Strategy's Expected Result/Impact: Improved performance for Other Special Populations in the area of drop out and social studies.</p> <p>Staff Responsible for Monitoring: Principals, teachers</p> <p>Funding Sources: Homeless support services - Title One Homeless, Homeless support and recovery services - State Comp Ed</p>	Formative			Summative
	Oct	Jan	Mar	May

 No Progress

 Accomplished





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Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.

Performance Objective 9: ECISD will develop and begin implementing a vision for the future of choice schools that connects to the district's broader vision for student success and considers academic goals, the diversity of student needs, expectations for low-performing schools, and a desire for continuous improvement.

Strategy 1 Details	Reviews			
<p>Strategy 1: Complete a districtwide Quality Seats Analysis (QSA), as defined by the System of Great Schools program, which includes academic performance and growth data, an analysis of long-term academic trends, historical enrollment data, community input, and other measures.</p> <p>Strategy's Expected Result/Impact: Produce a comprehensive report covering the current state of every school within ECISD to be shared with district leadership and utilized as the foundation for future decision-making regarding change initiatives in both neighborhood and choice schools.</p> <p>Staff Responsible for Monitoring: Executive Director of Choice Programs, Access, and Support</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 2 Details	Reviews			
<p>Strategy 2: Utilize the Quality Seats Analysis (QSA) to define multi-year district priorities and goals in order to deliver high-quality, best fit schools for every student in ECISD.</p> <p>Strategy's Expected Result/Impact: Produce a rank-ordered list of district priorities (and a timeline for their completion) which align with ECISD's System of Great Schools "North Star Goal" and can be accomplished over a 3-5 year implementation period.</p> <p>Staff Responsible for Monitoring: Executive Director of Choice Programs, Access, and Support</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 3 Details	Reviews			
<p>Strategy 3: Continue to implement high-fidelity charter authorizing policies, in alignment with Board Policy ELA, in order to oversee the work of previously-approved operating partners as well as identify opportunities for potential new partnerships to benefit ECISD students.</p> <p>Strategy's Expected Result/Impact: Collect substantive data in both quantitative and qualitative formats in order to support renewal, non-renewal, and termination decisions. Meet all stated documentation requirements of Board Policy ELA, TEA, and state and federal grant providers.</p> <p>Staff Responsible for Monitoring: Executive Director of Choice Programs, Access, and Support, Director of Choice and Partnership Schools</p>	Formative			Summative
	Oct	Jan	Mar	May





Strategy 4 Details	Reviews			
<p>Strategy 4: Develop new mechanisms to help ECISD families choose high-quality, best fit schools for their children.</p> <p>Strategy's Expected Result/Impact: The annual publication of School Choice information in web-based and printed formats, which is clear and accessible to parents and families. Host multiple in-person and/or virtual opportunities for parents and families to learn about school options within ECISD.</p> <p>Staff Responsible for Monitoring: Executive Director of Choice Programs, Access, and Support, Director of Choice and Partnership Schools</p>	Formative			Summative
	Oct	Jan	Mar	May
<p style="text-align: center;">  No Progress  Accomplished  Continue/Modify  Discontinue </p>				

Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.

Performance Objective 10: (INFORMATION IMPACTED BY THE WAIVER SUBMISSION. THIS INFORMATION WILL BE RELEASED IN JUNE)
 The four-year graduation rate will increase from 83.7% for the graduating class of 2018 (reported in 2019 TAPR) to 90% for the graduating class of 2024 (reported November 2025)

HB3 Board Goal

Evaluation Data Sources: The percentage of first-year freshmen leaving grade 9 with Algebra I credit will increase from 88% (2020) to 95% by August 2024.
 The percentage of first-year grade 9 students earning 6 or more credits will increase from 90.7% (2020) to 96% by August 2024.
 The percentage of second-year high school students earning six or more credits will increase from 89.2% (Class of 2022 with 12+ Credits) to 95% by August 2024.





Strategy 1 Details	Reviews			
<p>Strategy 1: Each high school campus will monitor, track, and intervene on behalf of all 9th graders predicted to leave their freshman year without an Algebra I credit or 6+ credits overall. These monitoring and intervention strategies will also be applied to second-year high school students failing to earn 6 or more credits (12 total).</p> <p>Strategy's Expected Result/Impact: 95% of all freshmen will leave ECISD schools with 6+ credits, one of them being Algebra I. 95% of all sophomores will earn a minimum of 12 credits.</p> <p>Staff Responsible for Monitoring: Professional School Counselors</p> <p>Results Driven Accountability - Equity Plan</p>	Formative			Summative
	Oct	Jan	Mar	May
				721
<p style="text-align: center;">  No Progress  Accomplished  Continue/Modify  Discontinue </p>				

Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.

Performance Objective 11: The percentage of students enrolling in postsecondary programs after high school graduation will increase by 5% year over year.

HB3 Board Goal

Evaluation Data Sources: National student clearinghouse postsecondary enrollment
State accountability and HB3 outcomes bonus





Strategy 1 Details	Reviews			
<p>Strategy 1: Develop tracking tools to collect current student college and career ready accountability indicators: SAT, TSIA, Dual Credit, IBCs, Level 1 or II certificates, College Prep Math/ELA, SpEd graduation plan, college enrollment.</p> <p>Strategy's Expected Result/Impact: Postsecondary enrollment the year after high school will increase by 5%. CCMR accountability and HB3 outcomes bonus will increase by 10%.</p> <p>Staff Responsible for Monitoring: CCMR Coordinator, Exec Director of Accountability</p> <p>Funding Sources: Data dashboard - State CCMR Allotment</p>	Formative			Summative
	Oct	Jan	Mar	May
				722
Strategy 2 Details	Reviews			
<p>Strategy 2: Train all stakeholders in the use of the developed CCMR tracking tools, such as CCMR data dashboards and CCMR student data cards, to support students with their CCMR goals.</p> <p>Strategy's Expected Result/Impact: Postsecondary enrollment the year after high school will increase by 5%. CCMR accountability and HB3 outcomes bonus will increase by 10%.</p> <p>Staff Responsible for Monitoring: CCMR Coordinator, Exec Director of Accountability</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: CCMR data dashboard - State CCMR Allotment</p>	Formative			Summative
	Oct	Jan	Mar	May
<p style="text-align: center;">  No Progress  Accomplished  Continue/Modify  Discontinue </p>				

Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.

Performance Objective 12: The percentage of students identifying and enrolling in college or career pathways by their sophomore year will increase by 5%.

HB3 Board Goal

Evaluation Data Sources: Students enrolled in dual credit/advanced coursework and successfully taking AP exams with a score of 3 or higher, the number of IBC's earned, level 1 & 2 certificates earned, Naviance student survey data, students enrolling in CTE programs with career pathways aligned to regional workforce needs and student interest using Naviance survey data.

Strategy 1 Details	Reviews			
<p>Strategy 1: Identify CTE programs with career pathways aligned to regional workforce needs and student interest. Train all stakeholders on the identified CTE programs and career pathways to promote career pathway awareness.</p> <p>Strategy's Expected Result/Impact: The percentage of students enrolled in CTE programs with career pathways will increase by 5%. CCMR accountability and HB3 outcomes bonus will increase by 10%.</p> <p>Staff Responsible for Monitoring: CCMR Director, Exec Director of CTE</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: - State CCMR Allotment</p>	Formative			Summative
	Oct	Jan	Mar	May
				723
Strategy 2 Details	Reviews			
<p>Strategy 2: Develop college readiness tracking tools and checklists. Train all stakeholders on college readiness tools, checklists, and pathways to promote postsecondary enrollment after high school.</p> <p>Strategy's Expected Result/Impact: The percent of students enrolling and successfully completing advanced coursework/advanced exams/dual credit courses will increase by 10%. The percentage of students enrolling in postsecondary programs after high school will increase by 5%. CCMR accountability and HB3 outcomes bonus will increase by 10%.</p> <p>Staff Responsible for Monitoring: CCMR Director, Executive Director of Accountability</p> <p>Results Driven Accountability - Equity Plan</p> <p>Funding Sources: - State CCMR Allotment</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				

Board Goal 3: Through foundational excellence, talent development and the learning journey, the percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.





Performance Objective 13: Through implementation of board policy (FFI (Local)) and the TEA Minimum Standards for Bullying Prevention, the percentage of students reporting bullying allegations, as well as substantiated bullying allegations, will decrease by 25%.

Indicators of Success:

Attendance - % of student daily attendance - 2024 Goal: 95%, School Connectedness - The belief held by students that adults and peers in the school care about their learning as well as about them as individuals - 2024 Goal: 63%

Evaluation Data Sources: Panorama survey results
PEIMS

Strategy 1 Details	Reviews			
<p>Strategy 1: Include questions related to bullying and cyberbullying on the fall and spring panorama survey to provide students an opportunity to share their perceptions of bullying on their campus.</p> <p>Strategy's Expected Result/Impact: Formative data for principals to address bullying and create an action plan for prevention and response when appropriate</p> <p>Staff Responsible for Monitoring: Principals Director of Administrative Services</p>	Formative			Summative
	Oct	Jan	Mar	May
				724
Strategy 2 Details	Reviews			
<p>Strategy 2: All school-based staff and bus drivers will complete Bullying training through Safe Schools.</p> <p>Strategy's Expected Result/Impact: Reduced number of alleged bullying incidents due to awareness of staff to recognize and prevent bullying.</p> <p>Staff Responsible for Monitoring: Principals Director of Transportation</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 3 Details	Reviews			
<p>Strategy 3: Each school will establish a bullying prevention committee that includes parents and students at the secondary level.</p> <p>Strategy's Expected Result/Impact: Reduced number of alleged bullying incident due to stakeholder involvement in prevention.</p> <p>Staff Responsible for Monitoring: Principals Director of Administrative Services</p>	Formative			Summative
	Oct	Jan	Mar	May

Strategy 4 Details	Reviews			
<p>Strategy 4: All campus administrators will use the Bullying Prevention and Response Toolkit to fully investigate bullying reports including the CHECKLIST FOR RESPONDING TO REPORTS OF BULLYING/HARASSMENT.</p> <p>Strategy's Expected Result/Impact: Timely response to bullying reports as we all as timely communication to parents regarding incidents involving their children.</p> <p>Staff Responsible for Monitoring: Principals Director of Administrative Services</p>	Formative			Summative
	Oct	Jan	Mar	May
Strategy 5 Details	Reviews			
<p>Strategy 5: Integrate research-based content into instruction designed to reduce bullying using lessons created by the Counseling Department using TEA curriculum.</p> <p>Strategy's Expected Result/Impact: Reduced number of reported bullying incidents due to a change in behavior through prevention and recognition instructional activities.</p> <p>Staff Responsible for Monitoring: Principals Guidance and Counseling Department</p>	Formative			Summative
	Oct	Jan	Mar	May
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  No Progress </div> <div style="text-align: center;">  Accomplished </div> <div style="text-align: center;">  Continue/Modify </div> <div style="text-align: center;">  Discontinue </div> </div>				



BOARD OF TRUSTEES

SUBJECT: Consent Agenda

PRESENTED BY: Dr. Scott R. Muri

BACKGROUND INFORMATION:

Ector County ISD adopted the use of the consent agenda as a means of expediting regular meetings. Consent agenda items consist of typical or routine matters in nature and typically have been discussed in a prior Board Work Study session. As such, the Board can consider all items included in the Consent Agenda with one motion. Should the Board choose to consider any item on the Consent Agenda separately, that item can be removed from the Consent Agenda, discussed, and voted on separately.

ADMINISTRATIVE RECOMMENDATION:

Approval of the Consent Agenda.



REQUEST FOR APPROVAL OF MINUTES OF MEETINGS

Attached you will find minutes of meetings of the Board of Trustees for:

May 14, 2024 – Board Workshop Meeting

AT A BOARD WORKSHOP MEETING OF THE BOARD OF TRUSTEES OF THE ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT HELD AT THE ADMINISTRATION BOARD ROOM, 802 NORTH SAM HOUSTON, ODESSA, ECTOR COUNTY, TEXAS, AT 6:00 P.M., MAY 14, 2024, WITH THE FOLLOWING MEMBERS:

Present:

Delma Abalos
Dr. Steve Brown
Tammy Hawkins
Dawn Miller
Christopher Stanley
Robert Thayer
Wayne Woodall

Absent:

School Officials: Dr. Scott Muri, Mike Adkins, Dr. Keeley Boyer, Dr. Lilia Náñez, Deborah Ottmers, Dr. Anthony Sorola, Alicia Syverson, Dr. Kellie Wilks

Others: Tatiana Dennis, Jessica Gore, Jaime Miller, Jacob Kirksey, Mitch Davis, Lauren Tavarez, Jessica Dominguez, Aaron Hawley, Virginia Hunt, Betsabe Salcido, Lisa Wills, Nory Leachon, Viviana Rivera, Sara Moore, Amy Russell, Cheryl Wilson, Betsy Rhodes, Tommy Rhodes, Stacey Nunez, Heather Potts, Daniel Beauchamp, Chris Terry, Tom Manskey, David Boutin, Mandy Hinojos, Samantha Baker, Jimmy Cox, Ann Hewitt, Tracey Borchardt, Albessa Chavez, Julie Drainer, Stephanie Garcia, Ruth Campbell, Rita Lopez, Mary Franco

26705 **Meeting Called to Order:** Christopher Stanley, Board President, called the Board of Trustees Meeting to order at 6:00 p.m.

26706 **Verification of Compliance with Open Meeting Law – this is to certify that the provisions of Section 551.001 of the Texas Government Code have been met in connection with the public notice of this meeting:** Board President Christopher Stanley, verified that the provisions of Section 551.001 of the Texas Government Code have been met in connection with public notice of this meeting.

26707 **Special Presentations:**

Grow Odessa Land Donation for Career and Technical Education Center: Grow Odessa officially transferred the deed to 37.9 acres of land in the industrial complex near the corner of E. Murphy Street and South Meadow Avenue. Grow Odessa donated the land to ECISD to be the site of the new Career & Technical Education Center approved by voters as part of Bond 2023. The new CTE Center will be the home campus for 400 full-time students. It would also serve an additional 2,000 students at various times throughout each day as they travel back-and-forth from Odessa High School, Permian High School, and New Tech Odessa taking CTE elective courses. The new CTE Center would work in partnership with Odessa College to offer students opportunities for dual credit, certifications, and degrees, and would be available

on nights and weekends as a training center for the Permian Basin's adult workforce.

26708 **Opening Remarks by Superintendent:** In his opening remarks, Superintendent Dr. Scott Muri gave an overview of the District's first round of bond sales which took place Tuesday morning. He said the interest rate was better than bond advisors anticipated and the better rate will mean a savings of \$2.9 million for taxpayers over the life of the bonds. This initial sale was for \$179 million and there were \$338 worth of requests. Locally, residents purchased \$40,000 worth of the bonds and one local bank purchased \$3 million. He said they were very popular and there will be another round of sales next month.

26709 **Public Comment:** Individuals who wish to participate during the portion of the meeting designated for public comment shall sign up with the presiding officer or designee before the meeting begins as specified in the Board's procedures on public comment and shall indicate the agenda item on which they wish to address the Board. *BED(LOCAL)*

In public comment, Viviana Rivera, a 7th-grade Math teacher at Bowie Middle School told Trustees she appreciates Opportunity Culture and her Multi-Classroom Leader (MCL) who has pushed her and coached her to become a stronger teacher whose students are showing double-digit growth this year.

Report/Discussion Items

26710 **Comprehensive Coaching Model Analysis with Ector County ISD and Texas Tech University:** Dr. Jessica Gore, Executive Director of Research, Evaluation, and Accountability along with Jaime Miller, Executive Director of Talent Development and Dr. Jacob Kirksey Assistant Professor, Associate Director of CIRCLE presented this item for discussion. Trustees received a report analyzing the district's coaching models to assess their effectiveness in terms of teacher performance, student growth, teacher retention, and financial impact. Researchers at Texas Tech University have been examining the impact of teacher coaching within the Opportunity Culture (OC) staffing model. In this model, a Multi-Classroom Leader (MCL) both teaches and coaches a team of teachers, aides, and/or teacher residents on campus. The goal is to extend the reach of Master teachers to more students and other teachers through daily coaching and modeling. The MCL is paid a significant stipend for this role.

Currently, 20 schools are implementing some form of the OC model, which is positively affecting student performance in both reading and math. Last year, Texas Tech's analysis of the MCLs' coaching role revealed that MCLs at elementary and high schools felt empowered and responsible for their campuses. However, middle school MCLs felt less included in leadership. Additionally, most MCLs identified workload and time management as issues.

This year, the district implemented strategies to address these concerns. Highlights from the 2023-24 analysis show that staff in OC roles are now more likely to want to stay at their current school (64% of all staff, 78% of those in OC roles). Furthermore, 92% of Team Teachers appreciate the support they receive from MCLs, and 91% of MCLs report having protected time to coach and support their team, up from 15% in the 2022-23 survey.

More coaching and training sessions are planned to further enhance Opportunity Culture roles in ECISD as the district strives to build a culture of coaching among staff.

No action required.

26711 **Curriculum & Instruction Report - Humanities**: Dr. Andrea-Moreno-Hewitt Executive Director of Curriculum & Instruction presented this item for discussion. Trustees received a report from Curriculum & Instruction focusing on Reading Language Arts (RLA) and Languages Other Than English (LOTE).

In Elementary RLA, the journey begins with the fundamental skill of learning to read, which is the cornerstone for the academic success. ECISD implemented Saxon Phonics in kindergarten through 2nd-grade and is seeing tangible evidence of improvement one year later. Small group instruction is also a priority, allowing teachers to provide more individual attention to students.

In Secondary RLA, consistent and aligned structures ensure students are reading with fluency and meaning. The STAAR exam now combines Reading and Writing, emphasizing the importance of these connections. An example was presented of a 6th-grade student who, through a combination of effective small group and whole group instruction, scored 9 out of 10 on the STAAR writing prompt using ECISD's RACER strategy, a framework for responding to text and writing.

In the LOTE program, students can earn a Performance Acknowledgement on their diploma for achieving Bilingualism/Biliteracy, demonstrating the ability to read and write in two languages.

Literacy in two languages opens doors to opportunities for students, and bilingual workers can earn 5-20% more than their monolingual counterparts. There is a focused effort to encourage more Emergent Bilingual students to pursue biliteracy. To qualify, students must maintain an 80 or higher in all English and LOTE courses or through Advanced Placement or International Baccalaureate exams. Additionally, Emergent Bilingual students must have successfully exited the Bilingual/ESL program. Last year, 62 students qualified, and this year, the number has increased to 120 so far.

No action required.

26712 **Technology Update Presentation:** Dr. Kellie Wilks, Chief Technology Officer along with Lauren Tavarez, Director of Digital Learning, Mitch Davis, Director of Technology Support, Jessica Dominguez, Digital Learning Coordinator, and Many Hinojos, Blended Learning Coordinator presented this item for discussion. Trustees received an update on how ECISD Technology Services is impacting classrooms and learning throughout the district, with a primary focus on classroom support. The first highlighted project was the installation of interactive flat panels, part of Bond 2023. This year, the IT team prioritized providing and improving help and support, handling 10,023 work orders with 81% initiated on time and 91% completed on time. Additionally, they answered over 25,000 Help Desk calls. Beyond their district duties, the team stepped out of ECISD to serve the community through volunteering at the West Texas Food Bank.

Blended Learning, a district initiative, is not only supporting teaching and learning but also growing the next generation of leaders through the #TechyTribe Ambassadors program, a multi-year professional development experience. ECISD has become a model for other school districts seeking to implement Blended Learning. The IT team aims to align technology and digital learning with campus and district learning goals. The Digital Learning team has dedicated 4,400 hours to support approximately 1,900 teachers through one-on-one meetings, grade-level/department sessions, and professional learning opportunities.

No action required.

26713 **Possible Request for Approval to Move to Closed Meeting - Personnel Matters - Section 551.074 of the Texas Government Code - [Board will deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of public employees of the District or hear a complaint or charge against an officer or employee.]**
Consultations with Attorney – Section 551.071 of the Texas Open Meetings Act [The Board will meet in Closed Session in Consultation with the Board’s Attorney Regarding all Matters as Authorized by Law.]

There was no closed session.

26714 **Closing Remarks by Superintendent:** In his closing remarks, Dr. Muri noted that the state has allocated an additional \$275,000 to ECISD for Blended Learning. He also announced that the district expects to close on the Sunset Golf Course property this week. Although this property is not part of the bond, it will be available for future growth. Additionally, this Friday evening will be the first two graduation ceremonies of the season – OCTECHS and Odessa Collegiate Academy. Trustee Tammy Hawkins shared with the other Trustees that she enjoyed her visit to Ross Elementary and appreciated the opportunity to speak with the students there.

26715 **Adjournment:** Christopher Stanley Board President, adjourned the Board meeting at 7:41 p.m.

Board President
Christopher Stanley

Board Secretary
Tammy Hawkins



REQUEST FOR APPROVAL OF BILLS FOR PAYMENT

Attached you will find a list of disbursements for the previous month for your approval.

TO: BOARD OF TRUSTEES
ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT

FROM: ACCOUNTS PAYABLE

RE: CHECK REGISTER

The following check amounts for the operations, materials and supplies for the maintenance of the School District are presented for your approval.

For the period 5/17/2024 to 6/12/2024

ANALYSIS RECAPITULATION	AMOUNT
Operating Fund:	\$ 11,169,997.24

**ECTOR COUNTY ISD
CHECK REGISTER
05/17/2024 - 06/12/2024**

DATE	PAYEE	AMOUNT
5/22	AMERIPRIDE SERVICES INC.	\$ 582.18
5/22	AVID CENTER	8,125.00
5/22	BASIN BLOCK & SUPPLY	195.00
5/22	B-LINE FILTER & SUPPLY INC	1,395.00
5/22	BUCK'S WHEEL & EQUIPMENT COMPANY	1,998.52
5/22	CONSOLIDATED ELECTRICAL DISTRIBUTORS	628.75
5/22	CONSORTIUM FOR SCHOOL NETWORKING (COSN)	608.00
5/22	DEMIDEC RESOURCES	1,195.00
5/22	GLOBAL EQUIP CO	2,622.49
5/22	HYDROTEX PARTNERS LTD	12,793.28
5/22	I B SOURCE	391.00
5/22	INTERNATIONAL BACCALAUREATE ORGANIZATION	9,562.00
5/22	J TAYLOR EDUCATION	735.00
5/22	J W PEPPER & SON INC	95.98
5/22	VITAL SIGNS	1,794.42
5/22	LAKESHORE LEARNING MATERIALS	47,539.70
5/22	NIMCO INC	137.45
5/22	O REILLY AUTO ENTERPRISES LLC	1,315.74
5/22	POLLOCK INVESTMENTS INC	2,413.75
5/22	REALLY GOOD STUFF LLC	498.29
5/22	SCHOLASTIC BOOK FAIRS	3,494.21
5/22	SCHOOL OUTFITTERS LLC	13,508.63
5/22	SECURED DOCUMENT SHREDDING INC	972.47
5/22	SHERWIN WILLIAMS	85.84
5/22	SIMS PLASTIC INC	519.00
5/22	TEXAS ART EDUCATION ASSOCIATION (TAEA)	192.00
5/22	TEXAS COMPUTER EDUCATION ASSOCIATION	149.00
5/22	TEXAS ASSOCIATION OF SCHOOL BUSINESS OFFICIALS	195.00
5/22	THE BOSWORTH LTD	2,629.04
5/22	TRANE U.S. INC.	3,442.00
5/22	UNITED STATES ACADEMIC	1,336.00
5/22	WEST MUSIC CO	769.15
5/22	BROADWAY MOTORS INC	359.67
5/22	GALLS LLC	1,388.50
5/22	NAPA AUTO PARTS	215.12
5/22	BARNES & NOBLE INC.	18,742.14
5/22	STONE TOWER GRAFIX	193.22
5/22	STONE TOWER GRAFIX	838.38
5/22	ARAMARK UNIFORM & CAREER APPAREL GROUP INC.	1,576.57
5/22	JOSTENS INC	4,101.90
5/22	BEST CHOICE RESTAURANTS LLC	779.56
5/22	BEST CHOICE COFFEE SERVICES LLC	274.11
5/22	SCHOOL SPECIALTY LLC	3,070.14
5/22	SCHOOL SPECIALTY LLC	18,398.22
5/22	ODP BUSINESS SOLUTIONS LLC	2,965.64

5/29	4IMPRINT INC	27,167.66
5/29	AMERIPRIDE SERVICES INC.	870.34
5/29	ANCHOR BOLT & SUPPLY	6.60
5/29	B-LINE FILTER & SUPPLY INC	1,091.45
5/29	BUCK'S WHEEL & EQUIPMENT COMPANY	1,589.13
5/29	AUTOMATIC ICE MACHINE	210.00
5/29	DEMCO INC	2,299.17
5/29	GLOBAL EQUIP CO	244.02
5/29	VITAL SIGNS	1,433.12
5/29	LAKESHORE LEARNING MATERIALS	22,583.71
5/29	MSC INDUSTRIAL SUPPLY CO.	3,569.00
5/29	O REILLY AUTO ENTERPRISES LLC	3,073.98
5/29	POSITIVE PROMOTIONS	367.35
5/29	REALLY GOOD STUFF LLC	999.60
5/29	REGION IV SERVICE CENTER	450.00
5/29	SCHOOL OUTFITTERS LLC	13,118.23
5/29	SECURED DOCUMENT SHREDDING INC	287.79
5/29	TEXAS INDUSTRIAL VOCATIONAL ASSOCIATION	63.00
5/29	TRANE U.S. INC.	306.87
5/29	BROADWAY MOTORS INC	272.24
5/29	HTL OPERATING LLC	196.18
5/29	NAPA AUTO PARTS	7,312.93
5/29	STONE TOWER GRAFIX	1,168.85
5/29	STONE TOWER GRAFIX	6,487.25
5/29	ARAMARK UNIFORM & CAREER APPAREL GROUP INC.	1,306.55
5/29	BEST CHOICE RESTAURANTS LLC	400.92
5/29	BEST CHOICE COFFEE SERVICES LLC	238.56
5/29	SCHOOL SPECIALTY LLC	6,313.02
5/29	SCHOOL SPECIALTY LLC	6,255.97
5/29	ODP BUSINESS SOLUTIONS LLC	2,890.60
6/5	AMERICAN SALES AND SERVICE INC	399.00
6/5	BUCK'S WHEEL & EQUIPMENT COMPANY	1,194.02
6/5	CENTERS FOR CHILDREN & FAMILIES	2,250.00
6/5	DEMIDEC RESOURCES	1,015.00
6/5	DRAMATIC PUBLISHING	241.76
6/5	FLINN SCIENTIFIC INC	595.50
6/5	THE GOODHEART-WILLCOX COMPANY INC	10,868.40
6/5	GRAPHIC SOLUTIONS GROUP	64.31
6/5	HENRY SCHEIN INC	11,764.37
6/5	THE HON COMPANY LLC C/O OFFICEWISE	3,759.81
6/5	VITAL SIGNS	625.00
6/5	LAKESHORE LEARNING MATERIALS	3,384.85
6/5	MARK'S PLUMBING PARTS	3,359.72
6/5	MSC INDUSTRIAL SUPPLY CO.	847.59
6/5	ODESSA WINLECTRIC	162.60
6/5	O REILLY AUTO ENTERPRISES LLC	2,377.17
6/5	REALLY GOOD STUFF LLC	13,445.38
6/5	DRI-STICK DECAL CORPORATION	2,072.00
6/5	SCHOLASTIC BOOK FAIRS	3,833.90
6/5	SCHOLASTIC INC	1,843.96

6/5	SCHOOL DATEBOOKS INC	6,043.02
6/5	SCHOOL OUTFITTERS LLC	52,340.14
6/5	SHERWIN WILLIAMS	991.00
6/5	SIMS PLASTIC INC	1,791.05
6/5	TEXAS ART EDUCATION ASSOCIATION (TAEA)	160.00
6/5	TEXAS ASSOCIATION OF SCHOOL BUSINESS OFFICIALS	195.00
6/5	TRANE U.S. INC.	23,940.00
6/5	UNITED STATES ACADEMIC	1,168.00
6/5	WENGER CORPORATION	632.48
6/5	WEST MUSIC CO	157.04
6/5	GALLS LLC	2,178.00
6/5	HTL OPERATING LLC	5,964.00
6/5	NAPA AUTO PARTS	1,500.32
6/5	BARNES & NOBLE BOOKSELLERS	2,422.50
6/5	STONE TOWER GRAFIX	1,462.50
6/5	ARAMARK UNIFORM & CAREER APPAREL GROUP INC.	167.88
6/5	JOSTENS INC	307.47
6/5	Y'ALL HAUL TRAILERS	99.98
6/5	SOUTHERN TIRE MART LLC	157.51
6/5	BEST CHOICE COFFEE SERVICES LLC	523.39
6/5	SCHOOL SPECIALTY LLC	5,825.58
6/5	SCHOOL SPECIALTY LLC	8,649.04
6/5	NATIONAL INVENTORS HALL OF FAME	49,289.00
6/5	ODP BUSINESS SOLUTIONS LLC	276.59
6/12	4IMPRINT INC	1,219.58
6/12	ALL ABOUT HEARING	477.00
6/12	AMERIPRIDE SERVICES INC.	565.43
6/12	BSN SPORTS INC	21,335.03
6/12	BUCK'S WHEEL & EQUIPMENT COMPANY	2,455.17
6/12	AUTOMATIC ICE MACHINE	3,386.84
6/12	DAKTRONICS, INC	40.00
6/12	DIAMOND BUSINESS SERVICES INC	2,000.00
6/12	THE GOODHEART-WILLCOX COMPANY INC	5,625.00
6/12	THE HON COMPANY LLC C/O OFFICEWISE	14,126.78
6/12	INDECO SALES INC	17,027.43
6/12	J W PEPPER & SON INC	3,032.88
6/12	LAKESHORE LEARNING MATERIALS	15,710.44
6/12	LAWSON PRODUCTS INC	971.05
6/12	MIDLAND SAFETY & HEALTH SALES	115.00
6/12	ODESSA WINLECTRIC	31,514.00
6/12	O REILLY AUTO ENTERPRISES LLC	480.12
6/12	POSITIVE PROMOTIONS	2,686.37
6/12	REALLY GOOD STUFF LLC	3,182.16
6/12	REGION IV SERVICE CENTER	60.00
6/12	DRI-STICK DECAL CORPORATION	1,185.80
6/12	SCHOLASTIC BOOK CLUB	594.16
6/12	SCHOOL NURSE SUPPLY INC	892.03
6/12	SCHOOL OUTFITTERS LLC	3,292.74
6/12	SECURED DOCUMENT SHREDDING INC	120.34
6/12	SHERWIN WILLIAMS	36.74

6/12	SIMS PLASTIC INC	380.76
6/12	TEXAS ASSOCIATION OF SCHOOL BUSINESS OFFICIALS	195.00
6/12	WENGER CORPORATION	1,628.94
6/12	WEST MUSIC CO	47.92
6/12	WOODWIND & BRASSWIND INC	258.64
6/12	BROADWAY MOTORS INC	1,007.94
6/12	GALLS LLC	137.83
6/12	TYLER BUSINESS FORMS	2,513.28
6/12	NAPA AUTO PARTS	39.38
6/12	THE SUPPLY ROOM INC	792.50
6/12	ARAMARK UNIFORM & CAREER APPAREL GROUP INC.	305.14
6/12	BEST CHOICE RESTAURANTS LLC	182.28
6/12	BEST CHOICE COFFEE SERVICES LLC	280.70
6/12	SCHOOL SPECIALTY LLC	1,414.67
6/12	SCHOOL SPECIALTY LLC	10,552.29
6/12	ODP BUSINESS SOLUTIONS LLC	524.07
5/22	2W INTERNATIONAL LLC	3,500.00
5/22	512 TERPS LLC	140.00
5/22	AIR TUTORS LLC	19,575.00
5/22	ALLIANCE RECOVERY LLC	90.00
5/22	AMANDA VESELY	104.58
5/22	AMAZON CAPITAL SERVICES	139,043.36
5/22	AMAZON CAPITAL SERVICES	16,385.33
5/22	AMAZON CAPITAL SERVICES	144.28
5/22	ANGELINA CAVAZOS	583.79
5/22	APPLE, INC	3,743.60
5/22	ASSOCIATED SUPPLY CO INC	696.00
5/22	AT&T	9,787.35
5/22	AT&T	9,752.02
5/22	AT&T	9,753.98
5/22	AT&T LONG DISTANCE	65.53
5/22	AT&T MOBILITY	57.63
5/22	ATHLETIC SUPPLY INC	2,463.00
5/22	ATHLETIC SUPPLY INC	113,276.50
5/22	AUDIO ACOUSTICS HEARING CENTERS	2,065.00
5/22	BARBERLOUNGE LLC	39.85
5/22	BARRY BROTHERS, LLC	344.70
5/22	BETSABE GONZALEZ SALCIDO	552.68
5/22	BIMBO BAKERIES USA	3,894.33
5/22	BLAIR LAWSON	108.60
5/22	DICK BLICK COMPANY	1,049.54
5/22	BLUE STAR BUS SALES LTD	221.89
5/22	BLUEFIN LLC	6,104.80
5/22	BLUEFIN LLC	454.27
5/22	BLUEFIN LLC	678.38
5/22	BLUEFIN LLC	8,871.03
5/22	BLUEFIN LLC	2,149.86
5/22	BRIAN G AROCHA SR	1,100.00
5/22	SPARKLIGHT	1,457.00
5/22	SPARKLIGHT	241.26

5/22	CAVALLO ENERGY TEXAS LLC	113,026.73
5/22	CDW-G	849.44
5/22	CENTRAL NATIONAL GOTTESMAN INC	1,912.50
5/22	CHARLES AND LEZIEE CHURCHFIELD	34,481.44
5/22	DUNN RESTAURANT GROUP INC	3,015.60
5/22	CHRISTINE DOCKALL	21.71
5/22	CHRISTOPHER ADAMS	246.69
5/22	CORRAL ENVIRONMENTAL CONSULTING, LLC	1,800.00
5/22	COSTA THERAPY INSTITUTE LLC	3,500.00
5/22	CRYSTAL DAY	691.66
5/22	CULLIGAN WATER CONDITIONING OF WEST TEXAS	228.50
5/22	CURRICULUM ASSOCIATES INC	2,200.00
5/22	DANNY LOPEZ	9,000.00
5/22	DEBORAH TAVAREZ	745.14
5/22	DEVIN MANOR	223.75
5/22	DONALD H. & SHARI A. RILEY	1,050.00
5/22	DORI LAINE BUTTS	875.00
5/22	E GROUP, INC	352.00
5/22	ED PRICE	265.00
5/22	EFS FUND INC	1,248.25
5/22	EICHELBAUM WARDELL HANSEN POWELL & MUNOZ PC	225.00
5/22	EICHELBAUM WARDELL HANSEN POWELL & MUNOZ PC	112.50
5/22	FAMILY WORKS INC	5,000.00
5/22	FEDEX	118.30
5/22	JACQUELINE H LIGHT	3,000.00
5/22	FOLLETT CONTENT SOLUTIONS LLC	784.98
5/22	G H DAIRY	28,777.05
5/22	LET'S GAB PLLC	5,050.00
5/22	GABRIELLE RAMOS	31.49
5/22	GANDY INK	2,024.75
5/22	GARDENDALE WATER CO	56.00
5/22	GRAINGER	31,638.95
5/22	GRANDE COMMUNICATIONS NETWORK LLC	3,339.22
5/22	GRANDE COMMUNICATIONS NETWORK LLC	1,641.71
5/22	GRANDE COMMUNICATIONS NETWORK LLC	1,576.58
5/22	GUADALUPE NINO	11.52
5/22	HANNAH HUEBNER	2,898.70
5/22	HAYNES & BOONE LLP	145.00
5/22	HOME DEPOT USA INC - STORE #562	21.16
5/22	HUMBERTO HERNANDEZ JR	2,937.28
5/22	ID PLUS LLC	2,480.00
5/22	INTEGRAL MATHEMATICS INC	4,450.00
5/22	JACQUELINE MILLER	583.79
5/22	JANET JUAREZ	315.00
5/22	JEREMIAH GONZALES	745.14
5/22	JOAN ALTENDORF	54.32
5/22	JOHN KREN	92.99
5/22	JONAS ANZURES	223.75
5/22	JOHN SIBLEY	199.53
5/22	JOSEPH WOOD	6,542.50

5/22	JUANITA OCON	20.50
5/22	JUMBURRITO	697.50
5/22	K. B. SAFE & LOCK CO	1,017.50
5/22	KAY'S EMBLEMS INC	2,620.00
5/22	KIMBERLY GUERRA	47.50
5/22	L WALLACE CONSTRUCTION CO INC	69,507.23
5/22	L WALLACE CONSTRUCTION CO INC	26,600.00
5/22	L WALLACE CONSTRUCTION CO INC	99,502.05
5/22	LABATT FOOD SERVICE	39,443.69
5/22	LARRY SANCHEZ	1,411.30
5/22	LAURA SIKES	265.99
5/22	LEROY FLORES	209.41
5/22	LETICIA BERNAL	1,150.85
5/22	LINDE GAS & EQUIPMENT INC	2,450.48
5/22	LINDE GAS & EQUIPMENT INC	1,058.75
5/22	LVR COMMERICAL FLOORING	22,406.65
5/22	MACKENZIE HOLT	275.00
5/22	MANSFIELD OIL COMPANY OF GAINESVILLE, INC	42,746.44
5/22	MARIA ALVAREZ FERNANDEZ	700.00
5/22	MARIA ORTIZ	153.41
5/22	MARISOL RODRIGUEZ	162.00
5/22	MARK BENNETT	396.80
5/22	MARK BENNETT	1,663.72
5/22	MARK KNOX FLOWERS	190.00
5/22	JAYNE B COMPANY	12,800.00
5/22	MELANA MOSS	115.08
5/22	MELLISSA BUTTS	238.75
5/22	MIGHTY WASH OPERATIONS LLC	975.00
5/22	MOBILE COMMUNICATION AMERICA INC	3,810.00
5/22	MOBILE COMMUNICATION AMERICA INC	5,715.00
5/22	MSB CONSULTING GROUP LLC	2,380.25
5/22	N-TUNE MUSIC & SOUND INC	890.00
5/22	NATALIE FITZGERALD	440.86
5/22	NATALIE FITZGERALD	31.00
5/22	NATHANIEL GARCIA	88.50
5/22	NATIONAL TRAVEL SYSTEMS	3,718.79
5/22	NCS PEARSON INC	7,436.35
5/22	NEW TECHNOLOGY NETWORK, LLC	500.00
5/22	NIMBUS DRINKING WATER SYSTEMS	25.00
5/22	NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS	360.00
5/22	ODESSA CHAMBER OF COMMERCE	1,200.00
5/22	SEWCO INC	53,776.05
5/22	OHS GRAPHIC DESIGN	120.00
5/22	ANDREA HESS	42.00
5/22	BRIANNA GARCIA	45.60
5/22	CAROL HINOJOS	32.05
5/22	CRISTA MITCHEL	31.75
5/22	J.B. CARROLL	53.25
5/22	KEYLA DELGADO	480.00
5/22	LIZETTE ANAYA	24.25

5/22	MARIA COMPEAN	10.00
5/22	MARIA HOLGUIN	34.00
5/22	MARIBEL ARANDA	73.00
5/22	MONICA AGUILAR	144.25
5/22	ROSA HERNANDEZ	31.55
5/22	TAMMY CHAN	38.94
5/22	VERONICA ALANIZ	66.35
5/22	OXFORD UNIVERSITY PRESS	1,382.83
5/22	PAYTON HUNTER	275.00
5/22	PENSKE COMMERCIAL VEHICLES US LLC	720.41
5/22	REED BOYD ENTERPRISES INC	1,200.00
5/22	SHANNON D GAYLOR	379.28
5/22	PIRAINO CONSULTING, INC	13,332.33
5/22	POINT TO POINT CONSULTING INC	1,465.25
5/22	PROFORCE MARKETING	7,767.45
5/22	QUIZIZZ INC	4,083.33
5/22	REYES A. HERNANDEZ	464.98
5/22	RICKY HICKEY	795.50
5/22	RONYALE MCCLENDON	425.94
5/22	ROSA HERNANDEZ	56.15
5/22	ROSAS CAFE / BOBBY COX Co.	510.42
5/22	ROSELL D CAUFIELD	2,600.00
5/22	SEAGULL VENTURES LLC	19,946.64
5/22	SHAYNE ADCOCK	70.35
5/22	SHELBYE HILL	688.98
5/22	SHELLY H CARRILLO	582.45
5/22	SOUTHERN MAID DONUTS	171.00
5/22	STACY ROMAN	745.14
5/22	STAR TECH GROUP	10,000.00
5/22	STEMARCO DESIGN LLC	149.70
5/22	STEMARCO DESIGN LLC	359.40
5/22	STERICYCLE	78.62
5/22	SULLIVAN SUPPLY SOUTH	1,161.37
5/22	SYSCO USA, INC	69,458.34
5/22	TASTY BRANDS LLC	20,762.40
5/22	TAVIS BROWN	260.39
5/22	TAVIS BROWN	12.07
5/22	TEXAS ASSOCIATION OF PARENTS AND EDUCATORS	1,600.00
5/22	TEXAS ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS	54.00
5/22	TEXAS ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS	270.00
5/22	TOMMY OR LAWANA SMITH	310.00
5/22	TORI HENDERSON	124.38
5/22	TRANSFINDER CORPORATION	1,367.97
5/22	TROPHY DEN	2,751.74
5/22	UNITED REFRIGERATION	881.46
5/22	VALERIA CONTRERAS	162.00
5/22	VANESSA FLORES	88.50
5/22	VANESSA FLORES	12.07
5/22	VERIZON WIRELESS SERVICES LLC	3,505.55
5/22	IMPERIAL BAG & PAPER LLC	13,372.94

5/22	WHITE HOUSE MEAT MARKET	1,258.00
5/22	WORTHINGTON DIRECT INC	17,453.27
5/22	XEROX CORPORATION	20,788.23
5/22	IISE F RUIZ MARQUEZ	750.00
5/23	BRUCE SAWYER	300.00
5/29	AIDE EMILIANO	103.50
5/29	AIR TUTORS LLC	16,025.00
5/29	ALAN WILLIAMS	1,018.44
5/29	ALAN WILLIAMS	342.58
5/29	ALISHA BUSS HOLGUIN	776.00
5/29	ALONDRA SANDATE	737.00
5/29	ALYSSA GRAFT	162.00
5/29	AMAZON CAPITAL SERVICES	31,620.34
5/29	AMAZON CAPITAL SERVICES	1,723.38
5/29	AMERICAN EXPRESS	28,794.17
5/29	AMERICAN FAMILY LIFE & CANCER	41.50
5/29	AMERICAN FAMILY LIFE & CANCER	6.00
5/29	AMY RUSSELL	186.00
5/29	ANA BAEZA	3,115.17
5/29	ANGELA BRAZIEL-SMITH	160.00
5/29	ANGELICA HOOPER	962.40
5/29	ANGELLE MUNDIA	776.00
5/29	ANGELO STATE UNIVERSITY	206.99
5/29	APPLE, INC	1,974.00
5/29	ARUNLIMITED LLC	12,400.00
5/29	ARLETH GAMEROS	962.00
5/29	ASSOCIATION OF TEXAS	2,739.81
5/29	ATHLETIC SUPPLY INC	5,190.00
5/29	ATHLETIC SUPPLY INC	10,703.00
5/29	ATKINS HOLLMAN JONES PEACOCK	29,366.68
5/29	BECKY DOCKTOR	170.50
5/29	BERKSHIRE PRODUCTION SUPPLY LLC	160.20
5/29	BERNARD HOOPER	1,632.98
5/29	BIMBO BAKERIES USA	734.49
5/29	BLANCA ANAYA	17.69
5/29	BLANCA LUJAN	75.78
5/29	BRADLEY MERRITT	54.72
5/29	BRIAN G AROCHA SR	2,308.00
5/29	BRUNSON FAMILY BBQ	846.92
5/29	CAITLIN COUCH	103.50
5/29	CAMBRIDGE EDUCATIONAL SERVICES INC.	7,700.00
5/29	CAROLINA VASQUEZ	56.55
5/29	CASEY WERNER	81.75
5/29	CASHWAY WEST, INC.	82.97
5/29	CDW-G	55,086.56
5/29	CHLOE RUBIO	962.40
5/29	CINDY OLIVAS	962.40
5/29	CITY OF ODESSA	350.00
5/29	CITY OF ODESSA	350.00
5/29	CLAIRE BARRY	737.60

5/29	CLAUDIA LOPEZ	1,065.80
5/29	COCA-COLA SOUTHWEST BEVERAGES LLC	491.60
5/29	COLLEGE BOARD INSTITUTIONS	65,832.00
5/29	CONTROL TECHNOLOGIES INC	118,016.30
5/29	CONTROL TECHNOLOGIES INC	34,218.60
5/29	CONTROL TECHNOLOGIES INC	21,524.44
5/29	CONTROL TECHNOLOGIES INC	39,870.27
5/29	CORA MAPP	737.60
5/29	COSTA THERAPY INSTITUTE LLC	6,500.00
5/29	CREEDMOOR SPORTS INC	2,778.92
5/29	CRYSTAL CAMPBELL	737.60
5/29	CRYSTAL MARQUEZ	206.50
5/29	CUSTOM WHOLESALE SUPPLY INC	1,626.74
5/29	CYNTHIA LANE	1,354.88
5/29	DA'NIEL BEAUCHAMP	186.00
5/29	DANA HUCKABY	1,367.85
5/29	DEANNA MCBRIDE	60.77
5/29	DELESA STYLES	612.92
5/29	DELESA STYLES	621.59
5/29	DELORES RAMIREZ	737.60
5/29	DENISE DELOERA	1,651.57
5/29	DIANE WAGGONER	160.00
5/29	DORA ALVARADO	737.60
5/29	DS WATERS OF AMERICA INC	51.46
5/29	DUNIA HERRERA	737.60
5/29	ECISD EDUCATION FOUNDATION	417.00
5/29	ECTOR COUNTY UTILITY DISTRICT	9,729.91
5/29	ELVIA RAMIREZ	28.48
5/29	EPALLET INC	35,838.60
5/29	ERIN REDDELL	1,282.56
5/29	FAMILY & CONSUMER SCIENCES	26.88
5/29	FAMILY SUPPORT PAYMENT CENTER	300.00
5/29	FERGUSON FACILITIES SUPPLY	1,181.88
5/29	FIDENCIA GUTIERREZ	15.88
5/29	FIRST FINANCIAL ADMINISTRATORS	31,818.91
5/29	FIRST FINANCIAL ADMINISTRATORS	1,222.39
5/29	FIRST FINANCIAL ADMINISTRATORS	8,799.10
5/29	FIRST FINANCIAL ADMINISTRATORS	6,051.80
5/29	FIRST FINANCIAL ADMINISTRATORS	5,754.35
5/29	FIRST FINANCIAL ADMINISTRATORS	5,360.83
5/29	FIRST FINANCIAL ADMINISTRATORS	68,830.39
5/29	FIRST FINANCIAL ADMINISTRATORS	2,551.96
5/29	JACQUELINE H LIGHT	2,000.00
5/29	FLORIDA STATE DISBURSEMENT UNIT	330.00
5/29	FOLLETT CONTENT SOLUTIONS LLC	2,283.96
5/29	FRANCES CARLOS	160.00
5/29	G H DAIRY	21,766.56
5/29	GABRIELLA HOLGUIN	80.13
5/29	GARY SNIDER	118.36
5/29	GAYLA MCMURRIAN	33.00

5/29	GRAINGER	2,207.76
5/29	GUADALUPE HOLGUIN	1,282.56
5/29	HILBERTO OCHOA	469.06
5/29	HOME DEPOT USA INC - STORE #562	4,627.00
5/29	HORTENCIA DEL BOSQUE	91.19
5/29	INDUSTRIAL COMMUNICATIONS	1,720.00
5/29	KEVIN D BALLARD INC	492.00
5/29	JASON WATSON	160.00
5/29	JEFF DANIELS	206.50
5/29	JENNIFER WIMBERLEY	103.50
5/29	JESSICA DENNEY	2,029.80
5/29	JIEUN PANDO	172.50
5/29	JOHNA STRAW	612.92
5/29	JOSE BAUTISTA	762.99
5/29	JUANITA OCON	43.95
5/29	JULIETTE BAYLESS	299.17
5/29	JUSTIN CROSS	704.34
5/29	KARL MILLER	1,354.88
5/29	KASEY N GULLETT	1,666.36
5/29	KATELYN ZIMMER	1,547.60
5/29	KAY'S EMBLEMS INC	4,612.00
5/29	KELLIE COLLINS	68.94
5/29	KIMBERLY BRYER	45.29
5/29	KIMBERLY SAUCEDA	1,562.86
5/29	KRISTI L. BARTLETT	19.83
5/29	LABATT FOOD SERVICE	1,814.19
5/29	LANDGRAF, CRUTCHER & ASSOCIATE	4,569.20
5/29	LARRY SANCHEZ	1,101.76
5/29	LINDE GAS & EQUIPMENT INC	2,372.84
5/29	LINDSEY HALL	1,264.29
5/29	LISA DONAHO	44.56
5/29	LISA HULSEY	74.57
5/29	LIZABETH CASTILLO	737.60
5/29	LIZZA CAMPOS	737.60
5/29	LUNCH MONY INC	197.26
5/29	M&M PARTY RENTALS LLC	1,475.00
5/29	MANSFIELD OIL COMPANY OF GAINESVILLE, INC	42,826.94
5/29	MARIA HERNANDEZ	200.00
5/29	MARIALUZ RANGEL	737.60
5/29	MARIVEL CORRALES	35.38
5/29	MARK BENNETT	904.33
5/29	MARK BENNETT	374.89
5/29	MARK CRISSINGER	160.00
5/29	JAYNE B COMPANY	850.00
5/29	MARLA HOPPINS	95.41
5/29	MARY GORMAN	186.00
5/29	MERCEDEZ MENDEZ	162.00
5/29	RESHAT AVDILJI	458.95
5/29	MICAH PETTIGREW	5.63
5/29	MICHAEL SKINNER	224.00

5/29	MICHEL DOCKTOR	762.99
5/29	MIRNA JIMENEZ	1,486.86
5/29	MONICA AZCARATE	762.99
5/29	MONICA OLIVAS	186.00
5/29	MONK HOLDINGS LLC	1,678.00
5/29	NATIONAL TRAVEL SYSTEMS	1,379.88
5/29	NCS PEARSON INC	812.24
5/29	STATE OF NEW MEXICO	300.00
5/29	STATE OF NEW MEXICO	659.00
5/29	NIMBUS DRINKING WATER SYSTEMS	18.00
5/29	NORA GONZALEZ	1,651.57
5/29	NORMA REYES	962.40
5/29	ODESSA COLLEGE	42,790.00
5/29	ODESSA ROTARY CLUB	296.00
5/29	ODESSA SIGN SOLUTION LLC	25.00
5/29	ODESSA SIGN SOLUTION LLC	25.00
5/29	ODESSA SIGN SOLUTION LLC	25.00
5/29	SEWCO INC	43,490.63
5/29	APRIL MENDOZA	43.80
5/29	ARLENA MADRID	71.50
5/29	CINDY LOPEZ	37.00
5/29	DELIA CRUZ	25.00
5/29	ELISA MARRERO HERNANDEZ	49.26
5/29	ESTHER GARZA	68.05
5/29	KARLA NEVAREZ	238.00
5/29	KELLY JONES	82.25
5/29	PATRICIA HERRERA	56.00
5/29	SUZANNA MUNOZ	32.00
5/29	TANIA HAGOOD	36.40
5/29	OTIS ELEVATOR COMPANY INC	3,440.00
5/29	OTIS ELEVATOR COMPANY INC	2,447.00
5/29	OTIS ELEVATOR COMPANY INC	54,497.80
5/29	PENSKE COMMERCIAL VEHICLES US LLC	2,391.28
5/29	POCKET NURSE ENTERPRISES INC	4,889.33
5/29	PRISCILLA TORRES	103.50
5/29	RACHEAL HARRIS	3,828.28
5/29	REBECCA RAMIREZ	224.00
5/29	REGINA DANIELLE LEE	659.42
5/29	REGION 13 EDUCATION SERVICE CENTER	390.00
5/29	REGION 18 EDUCATION SERVICE CENTER	4,893.53
5/29	REGION 18 EDUCATION SERVICE CENTER	150.00
5/29	RICHARD A. ONTIVEROZ	160.00
5/29	RICKY HICKEY	7,120.78
5/29	ROBERTS TRUCK CENTER OF TEXAS	1,906.21
5/29	ROSA HERNANDEZ	26.40
5/29	SAMANTHA NATIVIDAD	1,651.57
5/29	SANDRA KERR	776.00
5/29	SCOT STRAW	160.00
5/29	SENOVIO ORTIZ	776.00
5/29	THE SEWELL FAMILY OR COMPANIES INC	6,555.64

5/29	SHANNON BEARD	162.00
5/29	SLAM DUNK FOOD 2 LLC	240.00
5/29	SOPHIA OLIVAREZ	1,354.88
5/29	STEMARCO DESIGN LLC	9.95
5/29	STEPHANIE CASTILLO	1,180.71
5/29	TANYA GALINDO	737.60
5/29	TERESA MOLINAR	48.44
5/29	TESS DONNER	6,375.00
5/29	TEXAS AFT AMP	277.50
5/29	TEXAS ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS	54.00
5/29	TEXAS DEPARTMENT OF INFORMATION RESOURCES	395.48
5/29	TEXAS ELEMENTARY PRINCIPALS & SUPERVISORS ASSOC	413.81
5/29	TEXAS LIFE INSURANCE CO	142,371.19
5/29	TEXAS STATE TEACHERS ASSOCIATION	37,508.17
5/29	THE CENTER FOR GUIDED MONTESSORI STUDIES, INC.	23,370.00
5/29	THIRD FUTURE SCHOOLS TEXAS	47,668.69
5/29	THRU CONSULTING LLC	10,000.00
5/29	TIFFANY HERNANDEZ	1,150.50
5/29	TOP OF TEXAS PHOTOGRAPHY INC	681.45
5/29	TOP OF TEXAS PHOTOGRAPHY INC	506.01
5/29	TROPHY DEN	565.45
5/29	UNITED REFRIGERATION	4,811.08
5/29	UNITED WAY OF ODESSA	4,915.50
5/29	UNIVERSITY OF TEXAS- EL PASO	775.00
5/29	VALERIE RIVERA	1,486.86
5/29	VERIZON WIRELESS SERVICES LLC	5,083.55
5/29	IMPERIAL BAG & PAPER LLC	89.24
5/29	WATCHFIRE ENTERPRISES INC	351.84
5/29	WATCHFIRE ENTERPRISES INC	326.83
5/29	WEST TEXAS EDUCATORS	3,304.50
5/29	WEST TEXAS EDUCATORS	228,606.84
5/29	XEROX CORPORATION	5,166.34
5/29	IISE F RUIZ MARQUEZ	750.00
5/29	ZULEMA PALOMINO	52.80
6/5	ACCELERATION ACADEMIES	97,361.00
6/5	AIDE GARCIA	56.21
6/5	ALAN WILLIAMS	1,194.65
6/5	ALICIA SYVERSON	580.60
6/5	ALISHA SLIDER	36.18
6/5	AMANDA PADILLA	28.88
6/5	AMANDA R BIZZELL	25.00
6/5	AMANDA RAMIREZ	350.00
6/5	AMANDA TIJERINA	1,779.50
6/5	AMAZON CAPITAL SERVICES	71,814.28
6/5	ANDREA VALERO	60.90
6/5	ANGELA AGUIRRE	52.60
6/5	ANGELICA GOMEZ	2,039.63
6/5	ANGELICA MORENO	304.68
6/5	ANNIE ARREDONDO	640.00
6/5	ANTHONY JOEL SOROLA	551.60

6/5	ANTHONY SCOTT	105.32
6/5	APPLE, INC	588.00
6/5	ARMAND HAMMER	850.00
6/5	AT&T	1,529.29
6/5	AT&T	76.34
6/5	ATTAINMENT COMPANY, INC.	385.35
6/5	AUDREY BLAIR	1,003.05
6/5	B&H FOTO ELECTRONICS CORPORATION	277.41
6/5	BALS DURHAM LP	5,160.00
6/5	BIMBO BAKERIES USA	122.55
6/5	BLUE STAR BUS SALES LTD	1,131.40
6/5	BRADLEY MERRITT	316.30
6/5	BRANTLEY CREEK BBQ & CO LLC	8,407.50
6/5	BUSINESS PROFESSIONALS AMERICA	242.00
6/5	BWI COMPANIES INC	785.40
6/5	SPARKLIGHT	567.86
6/5	CALPINE CORPORATION	169,677.71
6/5	CARDIO PARTNERS INC	175.71
6/5	CAREER AND TECHNOLOGY ASSOCIATION OF TEXAS	685.00
6/5	CAROLINA VASQUEZ	44.89
6/5	CASHWAY WEST, INC.	24.97
6/5	CENTER FOR THE ADVANCEMENT AND STUDY	6,475.00
6/5	CHARTER WASTE INC.	20.80
6/5	CHERYL HINESLY	22.18
6/5	CHRIS STANLEY	265.81
6/5	CHRIS STANLEY	931.00
6/5	CHRISTOPHER MILLS	43.48
6/5	CHRISTY KENNEDY	161.81
6/5	CLAUDIA LOPEZ	2,247.75
6/5	CLAUDIA LOPEZ	2.48
6/5	CLINT STOWE	94.73
6/5	COMMERCIAL FOOD SERVICE	13,592.84
6/5	CRYSTAL PENA	43.22
6/5	CULLIGAN WATER CONDITIONING OF WEST TEXAS	89.00
6/5	CUMMINS SOUTHERN PLAINS LLC	673.22
6/5	CUSTOM WHOLESALE SUPPLY INC	167.25
6/5	DAVID CUPP	27.67
6/5	DAWN HUSTED	34.17
6/5	DAWN L MILLER	265.81
6/5	DAWN L MILLER	1,286.14
6/5	DELMA ABALOS	265.81
6/5	DELMA ABALOS	1,286.14
6/5	DENISE DELOERA	1,679.50
6/5	TWIN CITIES BOWLING INC	1,836.96
6/5	DONALSON CDJR LLC	461,600.72
6/5	ED PRICE	5,749.75
6/5	ELEVATE EDUCATION	10,000.00
6/5	ELIZABETH MCNABB	1,779.50
6/5	ERIC ARMIN INC	49,434.70
6/5	ERIK SALGADO	1,994.31

6/5	EXALANDER S MAGALLAN	134.84
6/5	FELICIA KAY BURDORF	700.00
6/5	FOCUS CARE INC	17,500.00
6/5	FIRST FINANCIAL ADMINISTRATORS	216,276.53
6/5	FIRST FINANCIAL ADMINISTRATORS	18,700.00
6/5	FIRST FINANCIAL ADMINISTRATORS	87,875.00
6/5	FIRST FINANCIAL ADMINISTRATORS	4,075.00
6/5	FIRST FINANCIAL ADMINISTRATORS	100.00
6/5	FIRST FINANCIAL ADMINISTRATORS	200.00
6/5	FIRST FINANCIAL ADMINISTRATORS	17,865.50
6/5	FIRST FINANCIAL ADMINISTRATORS	716.64
6/5	FIRST FINANCIAL ADMINISTRATORS	5,985.26
6/5	FLORIDA LEAGUE OF IB SCHOOLS (FLIBS)	2,250.00
6/5	FOLLETT CONTENT SOLUTIONS LLC	2,007.39
6/5	FRANCESCA FLORANCE	37.69
6/5	G H DAIRY	1,358.70
6/5	G T DISTRIBUTORS INC	3,424.56
6/5	GANDY INK	4,866.70
6/5	GARY MCMILLAN	48.24
6/5	MGUC LLC	793.94
6/5	GRAINGER	1,199.10
6/5	GRAND! PIANO SERVICE LLC	1,100.00
6/5	GREENWOOD PUBLISHING GROUP LLC	3,000.00
6/5	GRETCHEN BERNABEI	11,000.00
6/5	GUADALUPE NINO	11.27
6/5	GUADALUPE NINO	10.19
6/5	GUADALUPE NINO	14.41
6/5	HANNAH HELDT	52.13
6/5	HEALTH SERVICES ADMINISTRATION	284.14
6/5	HEALTH SERVICES ADMINISTRATION	23,445.05
6/5	HERITAGE LANDSCAPE SUPPLY GROUP INC	5,180.90
6/5	HILLER PRINTING	3,840.00
6/5	HUGO PAUL STIERHOLZ	350.00
6/5	IMAGES INK	45.00
6/5	IN DEPTH EVENTS INC	7,490.00
6/5	INK LION DESIGNS, LLC	2,258.54
6/5	INSOURCE INSURANCE GROUP, LLC	71.00
6/5	INTERNATIONAL ASSOCIATION OF LAW ENFORCEMENT	1,210.00
6/5	ISPHERE INNOVATION PARTNERS LLC	6,875.00
6/5	IVY BUSINESS FORMS INC	737.80
6/5	JAIME MILLER	694.60
6/5	JENNIFER DOUGLAS	6,250.00
6/5	JENNIFER PERKINS	304.68
6/5	JINSI SHU	871.74
6/5	JNT RESOURCES PARTNERS, LP	1,634.86
6/5	JNT RESOURCES PARTNERS, LP	32,083.51
6/5	JNT RESOURCES PARTNERS LP	36,702.66
6/5	JORGE DIAZ	1,209.56
6/5	JUDY RAMIREZ	162.47
6/5	JULIA KELTON	118.93

6/5	JULIAN MANCHA	1,350.00
6/5	JULIE SORUM	307.38
6/5	JUMBURRITO	109.23
6/5	KAY'S EMBLEMS INC	2,593.00
6/5	KRISTI EICHER	595.23
6/5	KYRSTEN NALL	58.42
6/5	LA MARGARITA	2,570.00
6/5	LABATT FOOD SERVICE	7,003.59
6/5	LALONNIE KING	1,000.39
6/5	LEGO BRAND RETAIL	12,354.45
6/5	LELIA RAMIREZ	1,994.31
6/5	LOCKFAST LLC	820.80
6/5	M&M PARTY RENTALS LLC	2,000.00
6/5	MAGDA RODRIGUEZ	31.68
6/5	MAHIRA SALINAS	77.39
6/5	MALINA ROUX	93.85
6/5	MANSFIELD OIL COMPANY OF GAINESVILLE, INC	10,716.44
6/5	MANUELA ESCAJEDA	3,091.65
6/5	MARCIA TOMBOSKY	1,444.81
6/5	MARIA ORTIZ	519.60
6/5	MARIA ZUBIATE	85.32
6/5	THE MARIACHI CONNECTION	515.00
6/5	MARK BENNETT	431.01
6/5	MARK BENNETT	1,479.55
6/5	MARK HARRIS HJ INC	5,105.05
6/5	MARK KNOX FLOWERS	1,632.00
6/5	MATTHEW SPIVY	551.60
6/5	MCI FOODS INC	26,396.16
6/5	MELISSA BOZKURT	1,639.60
6/5	MOBILE COMMUNICATION AMERICA INC	9,550.00
6/5	MSB CONSULTING GROUP LLC	3,218.86
6/5	N-TUNE MUSIC & SOUND INC	54,117.00
6/5	NATIONAL FOOD GROUP INC	51,200.00
6/5	NATIONAL TRAVEL SYSTEMS	4,017.70
6/5	NETSYNC NETWORK SOLUTIONS	22,370.62
6/5	NIMBUS DRINKING WATER SYSTEMS	27.00
6/5	NOBUYUKI SHIRAISHI	167.44
6/5	NOHEMI YBARRA	60.84
6/5	NORA GONZALEZ	1,779.50
6/5	NORA ISELA CRUZ	113.70
6/5	ODESSA COLLEGE	120.00
6/5	SEWCO INC	48,222.68
6/5	SEWCO INC	735.94
6/5	OHS GRAPHIC DESIGN	50.00
6/5	ONCE RAMOS LLC	1,719.00
6/5	ADILENE AMAYA	10.80
6/5	ARACELI DOMINGUEZ	40.75
6/5	ARMANDO NUNEZ	42.80
6/5	GRISELDA MONTES	38.00
6/5	JERI EDMIASTON	76.95

6/5	LAURA ARANDA	26.65
6/5	MARCO DAVIS	47.00
6/5	MISTY SIMS FRANKLIN	35.05
6/5	PAULA GRAHAM	23.85
6/5	PAULINA FOWLER	71.29
6/5	PENSKE COMMERCIAL VEHICLES US LLC	535.02
6/5	POCKET NURSE ENTERPRISES INC	12,376.00
6/5	REGION 18 EDUCATION SERVICE CENTER	78,225.00
6/5	RHONDA LONG	58.96
6/5	RICH CHICKS LLC	38,159.94
6/5	RICO B ENRIQUEZ	542.82
6/5	RIGO NUNEZ	14.07
6/5	ROBERT M THAYER	931.00
6/5	ROBERTS TRUCK CENTER OF TEXAS	1,561.27
6/5	ROBYN BIRKLA	464.63
6/5	RODRIGUEZ DRYWALL & PAINT CO	10,500.00
6/5	ROSAS CAFE / BOBBY COX Co.	183.33
6/5	ROSE VALDERAZ	1,423.48
6/5	SALLY POOL	72.70
6/5	SAM'S CLUB DIRECT	197.56
6/5	SAM'S CLUB DIRECT	119.04
6/5	SYNCHRONY BANK	38,302.49
6/5	SYNCHRONY BANK	44.72
6/5	SARAH BURTON	1,430.50
6/5	SEAGULL VENTURES LLC	24,073.56
6/5	THE SEWELL FAMILY OR COMPANIES INC	43.03
6/5	SHALON JORDAN	15.48
6/5	SIMULADOS SOFTWARE INC	10,500.00
6/5	SKILLSUSA TEXAS	900.00
6/5	STERICYCLE	292.05
6/5	STEVE BROWN	265.81
6/5	STEVE BROWN	1,286.14
6/5	STEVEN AICINENA	525.00
6/5	SUZANNE ZUNIGA	1,779.50
6/5	SWEET PIZZA LLC	136.99
6/5	SWEET PIZZA LLC	544.25
6/5	TAMMY HAWKINS	148.00
6/5	TAMMY HAWKINS	265.81
6/5	TAMMY HAWKINS	1,229.14
6/5	TEACHER CREATED MATERIALS INC	8,500.00
6/5	TEXAS A&M ENGINEERING EXTENSION SERVICE	277.00
6/5	TEXAS ASSOCIATION OF SCHOOL BOARDS	2,500.00
6/5	TEXAS ASSOCIATION FOR	530.00
6/5	TEXAS EXCAVATION SAFETY SYSTEM, INC.	18.40
6/5	TEXAS INTERNATIONAL BACCALAUREATE SCHOOLS	600.00
6/5	TEXAS SOCIAL STUDIES SUPERVISORS ASSOCIATION	275.00
6/5	TEXAS SOCIAL STUDIES SUPERVISORS ASSOCIATION	275.00
6/5	THE CINCINNATI LIFE INS. CO	20.04
6/5	THE CINCINNATI LIFE INS. CO	211.48
6/5	THELMA CHAPA	686.62

6/5	TIMOTHY C OKORIE	1,050.00
6/5	TOP OF TEXAS PHOTOGRAPHY INC	1,402.40
6/5	TRANS GLOBAL PRODUCTIONS INC	2,750.00
6/5	TRIPLE TREATS ODESSA INC	83.00
6/5	TROPHY DEN	1,760.50
6/5	TEXAS SCIENCE EDUCATOR LEADERSHIP ASSOCIATION	270.00
6/5	TUFF SHED INC.	6,954.80
6/5	TYSON PREPARED FOOD, INC.	54,984.96
6/5	UNITED REFRIGERATION	13,697.48
6/5	THE UNIVERSITY OF TEXAS AT AUSTIN	3,725.36
6/5	UNIVERSITY OF TEXAS AT AUSTIN HIGH SCHOOL	575.00
6/5	UNIVERSITY OF TX-PERMIAN BASIN	35.00
6/5	UNIVERSITY OF TX-PERMIAN BASIN	1,152.97
6/5	UNIVERSITY OF TX-PERMIAN BASIN	15.00
6/5	VALENTINA GONZALEZ	5,000.00
6/5	VALERIE RIVERA	2,127.37
6/5	VANESSA ZOELZER	28.01
6/5	VERONICA PEREZ	315.00
6/5	VICTOR GALVAN GUZMAN	1,729.50
6/5	WAYNE JEROD WOODALL	1,286.14
6/5	WEST TEXAS OFF ROAD CENTER	4,398.93
6/5	WHITE HOUSE MEAT MARKET	2,204.50
6/5	WORTHINGTON DIRECT INC	2,366.48
6/5	XEROX CORPORATION	29,270.22
6/5	XEROX CORPORATION	258.34
6/12	ANGEL ORTIZ	3,200.00
6/12	AARON ALEX MOLINA	54.00
6/12	AIDE EMILIANO	19.77
6/12	AIDE GARCIA	7.10
6/12	ALAN WILLIAMS	33,175.44
6/12	ALBERT J VALENCIA	150.75
6/12	ALEX NUNEZ	100.10
6/12	AMANDA WEBBER	1,370.34
6/12	AMAZON CAPITAL SERVICES	87,399.23
6/12	AMAZON CAPITAL SERVICES	209.80
6/12	ANTHONY JOEL SOROLA	193.62
6/12	ARDRAYDA NICOLE JEFFERY	96.00
6/12	ASHLEY SELLERS	40.87
6/12	AT&T	123.40
6/12	ATHLETIC SUPPLY INC	49,360.50
6/12	ATKINS HOLLMAN JONES PEACOCK	7,048.34
6/12	BASIN ABSTRACT & TITLE	5,000.00
6/12	BASIN ABSTRACT & TITLE	5,000.00
6/12	BECKY QUIROZ	90.52
6/12	BECKY RAMIREZ	82.54
6/12	BIG BEND TELECOM LTD	3,900.00
6/12	BILLIE SHIPMAN	22.45
6/12	BIMBO BAKERIES USA	915.93
6/12	BLAKE MCDONALD	35.44
6/12	DICK BLICK COMPANY	206.80

6/12	BLUE STAR BUS SALES LTD	4,227.85
6/12	BLUEFIN LLC	3,183.12
6/12	BLUEFIN LLC	252.37
6/12	BOBBY L ANDERSON	180.83
6/12	BRAZOS DOOR & HARDWARE	1,250.00
6/12	BRIDGETTE CASAS	103.18
6/12	BRITTANY MOLINAR	1,370.34
6/12	BRITTANY MOLINAR	41.44
6/12	BRITTANY MOLINAR	52.60
6/12	C ALEXANDER GROUP LLC	48,747.00
6/12	SPARKLIGHT	288.93
6/12	SPARKLIGHT	259.18
6/12	CAITLIN COUCH	98.29
6/12	CANDICE LYNN HARDING	805.42
6/12	CDW-G	1,612,230.10
6/12	CDW-G	58,072.00
6/12	CENTURY GRAPHICS & SIGN INC	2,661.87
6/12	CHANCEY WESTFALL	1,789.50
6/12	CHANTAL HERNANDEZ	47.97
6/12	CHERYL CUNNINGHAM	919.50
6/12	CHERYL CUNNINGHAM	175.00
6/12	CHERYL WILSON	11.06
6/12	DUNN RESTAURANT GROUP INC	2,472.25
6/12	NBCEC INC	1,883.39
6/12	CHRISTINA SIFUENTEZ	1,370.34
6/12	CICI'S PIZZA	229.70
6/12	CITY OF ODESSA	4,543.33
6/12	CITY OF ODESSA WATER DEPT	172,329.15
6/12	CLARISA ARRAS	284.15
6/12	CODY GULLETT	94.27
6/12	CONRAD WILCOX	525.00
6/12	CRISELDA ESPINOZA	324.50
6/12	CULLIGAN WATER CONDITIONING OF WEST TEXAS	58.00
6/12	CUSTOMINK, LLC	588.73
6/12	CYNDI WASHINGTON	1,657.10
6/12	DANIEL BUSTAMANTE	176.81
6/12	DANIEL P TIMMONS	111.36
6/12	DAVID CORRAL	100.03
6/12	DAVID LAY	995.00
6/12	DEVIN MANOR	1,310.33
6/12	DS WATERS OF AMERICA INC	48.52
6/12	ECTOR COUNTY APPRAISAL DIST	601,283.25
6/12	ED PRICE	248.00
6/12	EFREN ZUNIGA	57.22
6/12	ELISE WAGNER	1,026.24
6/12	ELIZABETH MARJASON	36.52
6/12	ELIZABETH MCNABB	29.67
6/12	ELIZABETH MCNABB	101.52
6/12	ELIZABETH QUINTELA	26.40
6/12	ELLEN SMITH	46.10

6/12	ELUMA LLC	137,730.60
6/12	EMILEE TRAMMEL	27.87
6/12	ENELICIA M RIVERA	115.30
6/12	FERGUSON FACILITIES SUPPLY	1,929.10
6/12	FOLLETT CONTENT SOLUTIONS LLC	13,111.80
6/12	G H DAIRY	6,012.00
6/12	GABRIELA BARRY	1,370.34
6/12	LET'S GAB PLLC	5,100.00
6/12	GOPHER SPORT	1,218.15
6/12	GRAINGER	1,772.95
6/12	HANNAH HELDT	34.71
6/12	HEIDI L HELFERICH	31.49
6/12	HOME DEPOT USA INC - STORE #562	245.88
6/12	HUGHES SERVICES FLOORING, LP	26,360.00
6/12	HURT EXTERMINATING	54,595.00
6/12	JAIME MATA	5,123.00
6/12	JAMES A. MCKINNEY	4,000.00
6/12	JEFF DANIELS	265.50
6/12	JENNIFER WIMBERLEY	33.03
6/12	JESSICA DOMINGUEZ	1,370.34
6/12	JESSICA SANTANA	1,058.00
6/12	JOHNNY SALDIVAR	57.69
6/12	JONN SIBLEY	245.29
6/12	JOSEPH LUCAS	141.62
6/12	JULIETTE BAYLESS	145.68
6/12	JUMBURRITO	577.50
6/12	KARIME MELENDEZ	38.86
6/12	KAY'S EMBLEMS INC	2,626.00
6/12	KELLIE WILKS	1,370.33
6/12	KELLY EVANS CONSTRUCTION. LLC	3,479.00
6/12	KYLA MCGARY	108.00
6/12	L WALLACE CONSTRUCTION CO INC	37,224.80
6/12	L WALLACE CONSTRUCTION CO INC	34,321.60
6/12	LA MARGARITA	220.00
6/12	LABATT FOOD SERVICE	30,972.40
6/12	LAKRISHA RODRIGUEZ	12.06
6/12	LAMAR ADVERTISING	3,784.00
6/12	LAND O'LAKE	11,830.00
6/12	LANDGRAF, CRUTCHER & ASSOCIATE	16,044.80
6/12	LARISSA HERNANDEZ	1,310.33
6/12	LAURA SCHEILE	1,310.33
6/12	LAURA SIKES	267.09
6/12	LAUREN TAVAREZ	276.50
6/12	LAWNMOWER SALES AND SERVICE, INC	40,188.80
6/12	LILIA NANEZ	1,421.33
6/12	LINDSEY POLLOCK	150.00
6/12	LOVING GUIDANCE INC	5,211.54
6/12	LVR COMMERICAL FLOORING	8,413.54
6/12	LYNDSAY FREEMAN	48.44
6/12	LYNETA MENDOZA	16.13

6/12	MANDY HINOJOS	276.50
6/12	MANSFIELD OIL COMPANY OF GAINESVILLE, INC	17,657.55
6/12	MARIA HERNANDEZ	68.00
6/12	MARK BENNETT	452.96
6/12	MARK BENNETT	1,065.32
6/12	MARK HARRIS HJ INC	6,903.36
6/12	MARK KNOX FLOWERS	1,303.00
6/12	MARK LOE. LLC	550.00
6/12	JAYNE B COMPANY	85,760.00
6/12	MARTHA CIRRINCIONE	1,350.50
6/12	MARY NEFF	1,500.00
6/12	MAURICIO MARQUEZ	35.00
6/12	MEGAN SNYDER	1,026.24
6/12	MELISSA QUINTELA	6.70
6/12	MICHAEL ELLIS	24.93
6/12	MICHELLE MADRID	1,370.34
6/12	N-TUNE MUSIC & SOUND INC	1,048.00
6/12	NATALIE FITZGERALD	177.91
6/12	NATIONAL TRAVEL SYSTEMS	4,372.80
6/12	NAYELI OLIVAREZ	135.47
6/12	NCS PEARSON INC	9,535.00
6/12	NETSYNC NETWORK SOLUTIONS	145,025.50
6/12	NEW TECHNOLOGY NETWORK, LLC	2,800.00
6/12	NIMBUS DRINKING WATER SYSTEMS	122.00
6/12	ODESSA COLLEGE	787,467.10
6/12	ODESSA SIGN SOLUTION LLC	25.00
6/12	SEWCO INC	40,250.40
6/12	OLIVIA PORRAS	136.28
6/12	ONCE RAMOS LLC	1,097.70
6/12	AMANDA WHITLOCK	43.75
6/12	ANGELICA TARANGO	26.20
6/12	BERNARD OKUMU	35.00
6/12	CARRIE BRONAUGH	27.75
6/12	EDITH GONZALEZ SOTO	49.26
6/12	FLOR AGUILERA	48.25
6/12	GUDALUPE FONG	48.25
6/12	HEVELYN AYERIM MARINELARENA	48.25
6/12	JAMES PARKER	22.00
6/12	JESSICA WAGNER	64.00
6/12	JOSEPHINE OLIVAS	34.50
6/12	JOYLYNN PHILLIPS	44.65
6/12	KARI PEER	74.50
6/12	KELLY ELLIOTT	60.90
6/12	KELLY MCBURNEY	100.66
6/12	KRISTI NANCE	80.00
6/12	MARY BUTTS	53.65
6/12	MEGHAN FARMER	108.60
6/12	MESHELL ROMAN	31.00
6/12	NEREIDA JIMENEZ	300.00
6/12	NEYIS GARCIA SANTOS	48.25

6/12	RACHEL POOL	46.75
6/12	VERONICA CONTRERAS	49.75
6/12	ORLANDO BONNEY	71.62
6/12	PENSKE COMMERCIAL VEHICLES US LLC	1,764.43
6/12	SHANNON D GAYLOR	460.00
6/12	PETER C GORMAN	2,500.00
6/12	PETROPLEX OFFICE SUPPLY, INC.	1,240.15
6/12	PRECISION BUSINESS MACHINES INC (PBM)	1,273.28
6/12	PRESENCE LEARNING INC	3,075.00
6/12	PRISCILLA TORRES	15.21
6/12	RACHEL GALVAN	1,370.34
6/12	REGINA CHABARRIA	1,176.24
6/12	REGION 18 EDUCATION SERVICE CENTER	950.00
6/12	RICKY HICKEY	1,545.00
6/12	RILEY COFFMAN	311.35
6/12	ROCIO DAVILA	13.94
6/12	ROSAS CAFE / BOBBY COX Co.	352.49
6/12	ROSELL D CAUFIELD	2,600.00
6/12	SYNCHRONY BANK	391.88
6/12	SANDRA LOPEZ RAMIREZ	1,026.24
6/12	SARBAGYA MALLA	1,068.59
6/12	SCARBOROUGH SPECIALTIES, INC	1,688.47
6/12	SCOTT MURI	652.70
6/12	SCOTT WALKER	250.04
6/12	SEPHARINE BUGAYONG	1,058.00
6/12	SHAYNE ADCOCK	16.08
6/12	SHELLEY WAGNER	23.18
6/12	STEMARCO DESIGN LLC	59.95
6/12	STOUT IMAGES, INC.	1,746.55
6/12	SUMMER PERCIFIELD	1,026.24
6/12	SUSAN HENDRICKS	185.53
6/12	SYSCO USA, INC	9,617.20
6/12	TECHNOLOGY RECOVERY GROUP LTD	4,584.68
6/12	TENIA IDELL	28.00
6/12	TERRY BRANDON UPCHURCH	1,310.33
6/12	TEXAS ACADEMIC DECATHLON FOUNDATION	168.00
6/12	TEXAS INTERNATIONAL BACCALAUREATE SCHOOLS	11,220.00
6/12	TEXAS TECH HEALTH SCIENCES CENTER	1,000.00
6/12	TEXAS TECH HEALTH SCIENCES CENTER	1,000.00
6/12	THE MCCRELESS COMPANY	20.80
6/12	THIRD FUTURE SCHOOLS TEXAS	14,344.48
6/12	THRU CONSULTING LLC	10,000.00
6/12	TIL-LOIS FIFER	1,370.34
6/12	TIM GILLEY	49.45
6/12	TRANS GLOBAL PRODUCTIONS INC	2,750.00
6/12	TREY BURNS	41.00
6/12	TREY BURNS	41.00
6/12	TRIPLE TREATS ODESSA INC	44.00
6/12	TYANN NIEMANN	878.82
6/12	UNITED REFRIGERATION	161.87

6/12	THE UNIVERSITY OF TEXAS AT AUSTIN	19,000.00
6/12	VALERIE HELITON	63.52
6/12	VICTORIA NORENA	87.70
6/12	VIKTORIA R HENDERSON	1,370.34
6/12	IMPERIAL BAG & PAPER LLC	69,225.49
6/12	WALTER T. HENDERSON	140.60
6/12	WARREN POWER & MACHINERY	3,604.08
6/12	WEST TEXAS EDUCATORS	3,304.50
6/12	WHITE HOUSE MEAT MARKET	886.50
6/12	XEROX CORPORATION	5,076.46
6/12	YULIA TSAY	871.74
6/12	YVETTE BRUSUELAS	1,518.00
5/23	AETNA LIFE INSURANCE COMPANY	427,311.32
5/23	PCARX LLC	135,625.70
5/28	AETNA LIFE INSURANCE COMPANY	362,395.31
5/28	PCARX LLC	133,358.91
	TOTAL NUMBER OF CHECKS WRITTEN FOR DISTRICT	1062
	TOTAL AMOUNT WRITTEN FOR DISTRICT	\$ 11,169,997.24



REQUEST FOR APPROVAL OF ACCEPTANCE OF DONATIONS OVER \$10,000

In accordance with policy CDC (local), Ector County ISD is requesting approval to receive the following donations greater than \$10,000.

Amount	Fund	From	Description
\$41,523	199	PHS Football Booster Club	Balance of donation for indoor practice field turf (from May 2024)
\$31,775	482	ECISD Education Foundation	¼ of Funds for 24/25 for STEAM Director and part time Aide for Inspiration Station

Budget # 199-81-6629-00-003-91 goes with PO#

905

Ector County ISD
068901
OTHER REVENUES:
GRANTS FROM PRIVATE SOURCES



OUR students...THE future

CDC
(EXHIBIT)A

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
Odessa, Texas

TO: Chief Financial Officer

FOR: Recommendation to Accept Donation/Gift

FROM: _____, Tracey Borchardt
Principal OR Director
_____, Athletics
School OR Department

Permian Football booster club donation
Name of Donor (if organization, please include name of president)

Mailing address _____ City _____ State _____ Zip Code _____
has offered a donation or gift in the following category: _____ Donation/Gift (describe below)

Description of Donation/Gift	Value*	Purpose of Donation
<u>Check # 3023</u>	<u>\$ 41,523⁰⁰</u>	<u>Pay for indoor turf field installed May 2023</u>
	\$	
	\$	

*Values assigned for donation of equipment or services is for internal reporting purposes only. This value may not be used as an appraisal value for IRS purposes.

Permission is requested to accept this donation/gift for our school/department. The donor understands that the donation/gift will become the property of the Ector County Independent School District and will be under the jurisdiction of the school/department in accordance with School Board Policy and administrative rules and regulations. Approved donation/gift should be added to fixed assets inventory if applicable.

REMARKS: _____

Approval Disapproval Tracey Borchardt 6/6/2024
PRINCIPAL / DIRECTOR Date

Approval Disapproval Celeste Potter 6-6-24
DIRECTOR OF DEVELOPMENT Date

Approval Disapproval Deborah Williams 6/19/24
CHIEF FINANCIAL OFFICER Date
(The following approval required for a single donation/gift of \$10,000 or more)

Approval Disapproval _____
SUPERINTENDENT OF SCHOOLS Date



OUR students...THE future
 ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
 Odessa, Texas

TO: Chief Financial Officer

FOR: Recommendation to Accept Donation/Gift

FROM: _____ / Celeste Potter
 Principal OR Director
 _____ / Development - 705
 School OR Department

Education Foundation of Odessa Chris Cole, President
 Name of Donor (if organization, please include name of president)
 PO Box 951 Odessa Texas 79760
 Mailing address City State Zip Code
 has offered a donation or gift in the following category: Donation/Gift (describe below)

Description of Donation/Gift	Value*	Purpose of Donation
Check# 3374	\$ 4,000.00	Part-Time Aide Inspiration Station
Check# 3373	\$ 27,775.00	Director of STEAM Initiatives & Special Projects
	\$	

Fund 482

*Values assigned for donation of equipment or services is for internal reporting purposes only. This value may not be used as an appraisal value for IRS purposes.

Permission is requested to accept this donation/gift for our school/department. The donor understands that the donation/gift will become the property of the Ector County Independent School District and will be under the jurisdiction of the school/department in accordance with School Board Policy and administrative rules and regulations. Approved donation/gift should be added to fixed assets inventory if applicable.

REMARKS: Donation to cover staff salaries/wages in support of Inspiration Station (*1/4 of 24/25*)

() Approval () Disapproval _____ Date
 PRINCIPAL / DIRECTOR
 (✓) Approval () Disapproval *Celeste Potter* *6-5-24*
 DIRECTOR OF DEVELOPMENT Date
 (✓) Approval () Disapproval *Deborah Ott* *6/10/24*
 CHIEF FINANCIAL OFFICER Date
 (The following approval required for a single donation/gift of \$10,000 or more)
 () Approval () Disapproval _____ Date
 SUPERINTENDENT OF SCHOOLS

Memo

To: Deborah Ottmers, Chief Financial Officer

From: Celeste Potter, Education Foundation

Date: June 5, 2024

Re: Donation

Message:

The Education Foundation Board of Directors is excited to partner with ECISD on the Inspiration Station Project. As part of that agreement, the Foundation is committed to covering all costs related to this project, including funds for necessary staff.

The enclosed checks are first of four installments for the 2024-2025 school year to cover the Director of STEAM Initiatives & Special Projects and the Part-Time Aide positions within the Development Office.

Next installments due October 2024.

$\begin{array}{r} \$27,775 \\ \times 4 \\ \hline \$111,100 \end{array}$	$\begin{array}{r} 4,000 \\ \times 4 \\ \hline \$16,000 \end{array}$	est
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REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING BETWEEN ECTOR COUNTY ISD AND ODESSA COLLEGE-ODESSA COLLEGIATE ACADEMY

The purpose of this Memorandum of Understanding between Odessa College and Ector County Independent School District is for Odessa Collegiate Academy (OCA).

The total budgeted cost is \$367,859 down from \$564,801 for the 2022-2023 costs. The \$367,859 are the costs from the 2023-2024 school year, which ECISD has paid in arrears. Detailed information is listed under Appendix A of the MOU.

The tuition and fees cost savings is due to Odessa College implementing the Financial Aid for Swift Transfer (FAST) this year. FAST provides tuition for students who meet the eligibility requirement as “educational disadvantaged” through the national free or reduced-price lunch program.

During the 2024-2025 school year, ECISD will catch up with tuition and fees costs. Odessa College will bill ECISD after the census date in late Fall of 2024 and Spring of 2025.

This agreement will be in effect for the 2024-2025 school year.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
ODESSA COLLEGE AND ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT**

THIS MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "MOU") is made and entered into by and between Odessa College (hereinafter referred to as the College), and Ector County Independent School District, (hereinafter the district), pursuant to the authority granted in compliance with section 29.908 of the Texas Education Code.

The parties to this MOU desired to establish an Early College High School (ECHS) in the fall 2018 academic year to be named Ector County Early College High School (now and hereinafter referred to as **Odessa Collegiate Academy (OCA)**), to serve grades 9-12, and provide dual enrollment for academic dual credit college courses for high school students free of charge. Prospective OCA students may be screened and selected through the use of a lottery system that encourages and considers applications from all students. All students will have an equal opportunity for acceptance, regardless of background or academic performance.

OCA has been designated as an Early College High School (ECHS) under the authority of Texas Education Code (TEC) §29.908(b) and Texas Administrative Code (TAC) §102.1091. The designation and requisite process ensures that the district and the college maintain the integrity of the ECHS model, which was researched and designed to target and serve students who might not otherwise attend college. The district must renew the designation annually.

Early College High Schools are small schools with enrollments between 400-500 or fewer students (100-125 students per grade cohort) which provide students the opportunity to earn both a high school diploma and up to 60 semester credit hours of transferable college credits and/or an associate's degree. The ECHS will:

- provide dual credit at no cost to students;
- offer rigorous instruction and accelerated courses;
- provide academic and social support services to help students succeed;
- increase college readiness; and
- reduce barriers to college access.

Furthermore, the district and the college will:

- Establish a mutually beneficial partnership between College and ECISD that allows a flexible and creative response to the organizational, missions, and fiscal needs of both institutions.
- Collaborate in planning, implementation, and continuous improvement of Early College High School programs including the provision for faculty, staff, and administration, curriculum development; training and student services.
- Commit to financial collaboration that addresses costs of both partners and assists each in obtaining necessary funds from local, state, federal and private and/or foundation sources to operate the program successfully.
- Provide classes and activities of the Early College High School on the OC campus with students integrated on an age-appropriate basis in campus facilities and college co-curricular activities.
- Commit to shared use of facilities including classrooms, labs, offices and libraries that reduces operating costs and promotes collaboration of students, faculty, staff, and community members in program success.

- Select of students based on the framework provided in the Texas Education Agency ECHS Blueprint.

Students enrolled in OCA will be enrolled courses of study which enable the student to combine high school courses and college-level courses to complete the Texas core curriculum and earn either an associate degree or at least 60 semester credit hours toward a baccalaureate degree. The College will offer the following courses of study:

- Core Curriculum Certificate
- Biology
- Geology
- Business Administration
- Integrated Studies – Humanities
- General Studies – STEM
- Psychology
- Teaching - Early Childhood to 6th Grade

The dual credit college courses for high school students will be offered in accordance with Chapter 4 of the Texas Higher Education Coordinating Board Rules, as codified under Title 19, Part 1, Chapter 4 of the Texas Administrative Code.

LOCATION

OCA is located at:
Odessa College
Deaderick Hall
201 W University Blvd
Odessa, TX 79764

High school and college courses will be conducted at OC. The College shall provide office and classroom spaces for use by ECHS faculty and staff. The College and the District will review invoiced facility fees on an annual basis and update as necessary. The College will invoice the district annually in May. OCA students, faculty, and staff shall have access to instructional and non-instructional resources available on the campus of OC including but not limited to the cafeteria, the learning resource center (library and tutoring), the campus (student) center, the sports center, performing arts and sporting events.

OCA students, instructors, and staff will receive a College identification cards, and will have access to instructional and certain agreed upon non-instructional resources and services available on Campus. College resources and services will be available to support curricular and co-curricular success and engagement. The District and College will evaluate the facilities and access annually to determine the need for adjustment.

OPERATING HOURS AND INSTRUCTIONAL CALENDAR | OCA will operate within the normal operating hours of the college during a regular school day. The District will align the ECHS academic calendar with the college calendar to minimize missed instructional days due to student holiday and district professional development.

FUNDING, COSTS, TEXTBOOKS AND TRANSPORTATION | The College and the District will identify

tuition and fees to be paid by the District (at no cost to the students) in an annual invoice. Both the college and the district will review the tuition and fees annually and update as necessary.

OCA will generate Average Daily Attendance (ADA) funds for the School District from the attendance of students, which will be used to provide funding for the operations and expenditures of the high school as authorized by the Texas Education Code.

The College will generate state contact hour funding which will be used to provide supplemental funding for the operations and expenditures.

Changes to the funding formula for either the District or the College will be reviewed annually to determine whether adjustments are needed. Adjustments will be communicated in the spring semester to align with the District and College budget processes.

All College textbooks, including Open Educational Resources (OER) and associated fees, as well as supplemental materials required for College courses will be provided by the District. College approved textbooks purchased by the District may be used for the time period consistent with College practices.

The College and the ECHS leverages Blackboard, an online learning management system (LMS), in every course regardless of modality. The LMS is used for assignments, assessments and grading. Additionally, Blackboard allows college and district personnel to monitor student pace and progress, ensuring timely intervention and support. As such, the Early College High School agrees to distribute District issued laptops to all ECHS students.

The District will provide transportation (school bus) to students enrolled at OCA as required under State law and School District rules and procedures.

The District will provide meals for students as appropriate under State and Federal Law and School District rules and procedures. OCA students may purchase food from the College's food service provider.

TESTING | The College will administer the Texas Success Initiative (TSIA) college placement exam, free of charge, to all incoming ninth (9th) graders to assess college readiness and to enable students to begin college courses based on their performance as soon as students are able and ready. Subsequent dates for TSIA college placement exams will be coordinated, scheduled and provided by the College free of charge.

GRADING | Grading periods and policies are delineated in the ECISD Student Handbook which is found online at www.ectorcountyisd.org. The College grading periods and policies are delineated in the College Catalog which is found online at www.odessa.edu.

College instructors shall provide the ISD with a numerical grade equivalent to the corresponding letter grade awarded to the student. The College and all instructors shall work with the District to ensure that numerical grades are provided on a timely basis. The parties acknowledge that certain reports may be due at a time when no new college work has been performed by the student. The College agrees to report a grade for each student to the District at each nine weeks grading interval. The College and District agree to share necessary student records as appropriate for

scheduling and advising of students.

The College recognizes that District's students participating in these classes may also participate in UIL-sanctioned activities. Accordingly, the College and all instructors shall work with the District to ensure that numerical grades are provided on a timely basis. The parties acknowledge that certain reports may be due at a time when no new college work has been performed by the student.

OCA students are expected to meet academic standards for coursework completed at the high school and at the College. Students who do not meet satisfactory academic progress outlined by the District and the College are subject to academic intervention and remediation including academic probation and academic suspension. Academic probation and suspension may limit continued enrollment in college courses and may result in removal from OCA.

CURRICULUM ALIGNMENT | OCA and the College will provide a rigorous course of study that enables students to receive a high school diploma and complete the Texas Higher Education Coordinating Board's (THECB) core curriculum as defined by the Texas Administrative Code (TAC 4.28 or an associate's degree or at least 60 credit hours towards a baccalaureate degree during grades 9-12. OCA will provide students with academic, social, and emotional support in their course of study. The College will regularly update the OCA principal regarding College curricular changes. OCA is responsible for ensuring that state course requirements for high school graduation are fulfilled.

The college and the district will use existing course equivalency crosswalk agreements for each degree plan – equating high school courses with college courses and the number of credits that may be earned for each course completed through the dual credit program. College courses have been evaluated and approved through the College curriculum approval process and will be taught at the College level. College academic policies and procedures will apply to dual credit courses.

INSTRUCTORS AND CLASS SIZE | Dual credit instructors must meet the College's academic requirements for all academic dual credit courses. The District will be responsible for the evaluation and assessment of instructors and staff for high school credit-only courses conducted at OCA. The College will provide instructors who meets the College's academic requirements for dual credit courses. The College will be responsible for the evaluation and assessment of instructors and staff for college credit courses conducted at OCA. Standard College minimum and maximum class enrollment may be required and exceptions will require College approval. The College uses a hybrid course modality for the majority of transfer-level courses. These courses meet face-to-face for one-half of the required college contact hours. To maintain consistency in schedules and ensure the virtual contact hours are met, students enrolled in hybrid courses will be assigned Dual Lab periods. The District will provide a certified teacher to facilitate Dual Lab class periods, monitor student pace and progress, and communicate to the ECHS and to the College accordingly.

OCA and the College will provide opportunities for OCA teachers and higher-education faculty to collaborate through planning, teaching, and professional development.

When scheduling ECHS students for college and high school courses, all efforts will be made to follow the low student teacher ratio for high school and college class size due to facility limitations and program requirements. This is consistent with the college's philosophy of prioritizing teaching and learning while leveraging AVID high engagement strategies to foster a safe and open culture,

with high expectations for teachers and students, and collaboration in all learning spaces. Furthermore, the district will staff the ECHS appropriately to mitigate over-crowding and maintain the cohort model outlined in the TEA ECHS blueprint. Being that AVID is supported by the College and the District, the ECHS will provide AVID as a high school course for all students.

COLLEGE ADMISSION AND ENROLLMENT IN COURSES | OCA students must meet dual credit admissions and eligibility requirements as outlined by the Texas Higher Education Coordinating Board laws and regulations, the Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter D, Rule § 4.85.

OCA students must meet the same requirements and pre-requisites as all College students for college classes. Academic placement is based TSI scores. OCA students are required to meet TSI requirements when changes to the exemption scores occur at the State or College level to comply with policy. Continued enrollment is contingent upon OCA student's maintaining satisfactory academic progress.

DATA SHARING | FERPA allows protected student data to be exchanged between the College and the District for students that are dually enrolled without the consent of either the parents or the student under § 99.34. If the student is under 18, the parents still retain the right under FERPA to inspect and review any education records maintained by the School District, including records that the College disclosed. The College and the District are expected to meet FERPA requirements to maintain the privacy of student data.

The College and the District will identify student data reports that are critical to student success, and will provide data reports upon request or per a data timeline. District and College personnel will be responsible for securely distributing and receiving data via a secure process. Student level data shall not be shared outside without prior authorization from the data source.

ADVISING AND TRANSFERABILITY | The College's ECHS liaison will provide comprehensive advising and pathway planning services for OCA students. The ECHS liaison serves as the designated College support services staff and will provide orientation, advising, registration, and college bound programming, as well as coordination of Section 504 of the Rehabilitation Act and the Individual with Disabilities Education Act. The ECHS liaison serve as the academic early alert liaison for College faculty teaching ECHS courses, and will work closely with the OCA principal and counselor to provide student, academic intervention and remediation as necessary.

The College will advise OCA students as to the transferability and applicability to baccalaureate degree plans of all college credit offered and earned.

ATTENDANCE IN COLLEGE COURSES | OCA students are required to maintain regular and punctual attendance in class and laboratories to meet the required number of contact hours per semester.

STUDENT CONDUCT | OCA are subject to discipline and appropriate sanctions up to and including suspension and expulsion from the College. The student code of conduct and sanctions are outlined in the College student handbook. OCA students who receive a sanction of suspension or expulsion from the institution must be removed from the college course and placed in a high school credit course or a traditional high school setting by the District. Further, Odessa College reserves the right to refer cases to the Behavioral Intervention Team for review and threat assessment.

DISCONTINUATION OF ECHS OPERATIONS | Should the District or College elect to discontinue the operation of the OCA the provisions for serving the students will include the following:

- Students in the 9th and 10th grade will be received by the designated comprehensive high school in the district.
- Students in 11th and 12th grade will continue enrollment at OCA and in college course through scheduled graduation.

INDEMNIFICATION | To the extent permitted under Texas law and without waiving any defenses including governmental immunity, each part to this MOU agrees to be responsible for its own acts of negligence, which may arise in connection with any all claims for damages, costs and expenses to person or persons and property that may arise out of or be occasioned by this MOU or any of its activities or from any act or omission of any employee or invitee of the parties of this MOU. The provisions in this paragraph are solely for the benefit of the parties to this MOU and are not intended to create or grant any rights, contractually or otherwise to any third party.

TERM | Subject to prior termination or revocation of this MOU, the initial term of this MOU is in full force and effect for a period of one (1) year. This MOU begins on the date of signature by both parties and continues through the initial term and any subsequent renewal terms. It may be renewed for (2) one-year terms. At least one hundred twenty (120) days before the expiration of the initial term and any subsequent renewal terms, OC shall review this MOU and ECISD may renew this MOU on approval of OC.

RIGHT OF REVOCATION | Either party may terminate this MOU on 120 days' written notice to the other party. Termination may occur upon the breach of this MOU by one of the parties. A breach of this MOU includes, but is not limited to, a violation of the policies and rules of the OC, the making of a misrepresentation or false statement by one of the parties, nonperformance of the party's duties, or the occurrence of a conflict of interest between the parties. Each party has 30 days to cure the breach. If this MOU is terminated during an academic term, students enrolled in classes under this MOU will be allowed to finish their coursework and receive appropriate course credit.

ASSIGNMENT | Neither party may assign their interest in this MOU without the written permission of the other party.

LIMITATIONS OF AUTHORITY | Neither party has authority for an on behalf of the other except as provided in this MOU. No other authority, power, partnerships, use of rights are granted or implied.

This Agreement represents the entire Agreement by and between the parties and supersedes all previous letters, understanding or oral agreements between OC and ECISD. Any representations, promises, or guarantees made but not stated in body of this Agreement are null and void and of no effect.

Neither party may make, revise, alter or otherwise diverge from the terms, conditions or policies which are subject to this Agreement without a written amendment to this Agreement.

Neither party may incur any debt, obligation expense, or liability or any kind against the other without the other's express written approval.

WAIVER | The failure of any party hereto to exercise the rights granted them herein upon the occurrence of any of the contingencies set forth in this Agreement shall not in any event constitute a waiver of any such rights upon the occurrence of any such contingencies.

APPLICABLE LAW | This Agreement and all materials and/or issues collateral thereto shall be governed by the laws of the State of Texas applicable to contracts made and performed entirely therein.

VENUE | Venue to enforce this Agreement shall lie exclusively in Ector County, Texas.

MISCELLANEOUS PROVISIONS | Neither party shall have control over the other party with respect to its hours, times, employment, etc. However, OC operational hours and calendar shall take precedence.

The parties warrant that their mutual obligations shall be performed with due diligence in a safe and professional manner and in compliance with any and all applicable statutes, rules and regulations. Parties to this MOU shall comply with all Federal, State, and local laws.

If the Texas Higher Education Coordinating Board adopts new guidelines or Early College High School programs during the term of this MOU, the new guidelines shall prevail.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
ODESSA COLLEGE AND ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT**

EXECUTED in duplicate original counterparts effective upon the date indicated above.

ODESSA COLLEGE

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT

President

Superintendent

Date

Date

ODESSA COLLEGIATE ACADEMY (OCA) | INVOICE – Academic Year 2023-2024

During each academic year, the ECHS, the college, and the district leadership will collect and analyze budget data, including but not limited to tuition, fees, state funding, salaries, facilities, and operating expenses to develop a sustainable cost-sharing model for the ECHS. The following costs are based on the 2023-2024 academic year activities of the ECHS and shall be due and payable by the district on December 1, 2024.

The parties agree that the district shall pay 25 percent of the previous year’s total compensation, including benefits, of the Early College High School Liaison employed by OC. Due to increased enrollment at OCA, Odessa College has added an additional ECHS liaison FTE. Each ECHS will have a designated liaison. As such, each ECHS will fund 25% of the ECHS liaison’s total compensation assigned to their school. OC will invoice the district as shown below:

Annual Salary (FY2023-24)	\$108,650
Benefits	\$21,730
TOTAL COMPENSATION x 25% (due and payable by Dec.1, 2024)	\$32,595

CLASSROOM AND OFFICE FACILITIES | OC and ECISD have identified facility fees for the academic year 2023-24. OC will invoice ECISD for facility fees as shown below:

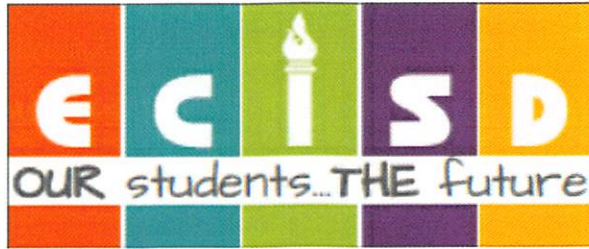
Amortization of Facility Renovations to Deaderick Hall: (excluding deferred maintenance items absorbed by OC)	10 Year Amortization of \$332,804	\$33,280
Custodial Services (21,727 sq. ft. of net assigned space)	\$0.097 per SF per mo. for 10 mos.	\$21,075
Electricity, Gas, Water, Sewer	\$1.53 per SF annually	\$27,702
Facility Support, including security, insurance, technology infrastructure, maintenance, grounds, parking	\$0.12 per SF per month for 10 mos.	\$26,072
TOTAL FACILITY FEE (due and payable by Dec. 1, 2024)		\$108,129

TUITION AND FEES | OC and ECISD will identify tuition and fees to be paid by ECISD (at no cost to the students) based on actual enrollments and foregone tuition (at dual credit rates). Upon the third attempt in a course, the student will be liable for tuition and fees. The tuition and fee calculation will occur at the conclusion of the current academic year. Odessa College has implemented financial aid for Swift Transfer this year. As a result, those savings to the district will be reflected in the invoice. This change results in significant savings to the district totaling \$307,774 related to the 2023-2024 academic year. OC will invoice ECISD for the following tuition and fees related to the 2023-2024 academic year that will be due and payable by December 1, 2024.

INVOICE (continued)

Academic Semester	Sem. Credit Hours	Tuition \$55/SCH	Activity Fees \$2/SCH	OER & Course Fees	FAST Savings	TOTAL NET
Fall 2023	3,754	\$206,470	\$7,508	\$38,300	(141,153)	\$108,125
Spring 2024	4,240	\$233,200	\$8,480	\$39,951	(162,621)	\$119,010
TOTAL TUITION & FEES (due and payable by Dec. 1, 2024)						\$227,135

Traditionally, the District pays annual tuition and fees in arrears. In 2024=25, the District will pay fall 2024 tuition in December 2024 and spring 2025 tuition in May 2025. The College will bill the district after the census date for fall 2 (2024) and spring 2 (2025).



REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING BETWEEN ECTOR COUNTY ISD AND ODESSA COLLEGE-OCTECHS

The purpose of this Memorandum of Understanding between Odessa College and Ector County Independent School District is for Odessa Career and Technical Early College High School (OCTECHS).

The total budgeted cost of this MOU is \$244,862, which is down from \$482,150 based on the 2022-2023 academic school year. The \$244,862 are the costs from the 2023-2024 school year, which ECISD has paid in arrears. Detailed information is listed under Appendix A of the MOU.

The tuition and fees cost savings is due to Odessa College implementing the Financial Aid for Swift Transfer (FAST) program this year. FAST provides tuition for students who meet the eligibility requirements as "educational disadvantaged" through the national free or reduced-price lunch program.

During the 2024-2025 school year, ECISD will catch up with tuition and fees costs. Odessa College will bill ECISD after the census date in late Fall of 2024 and Spring of 2025.

This agreement will be in effect for the 2024-2025 school year.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
ODESSA COLLEGE AND ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT**

THIS MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "MOU") is made and entered into by and between Odessa College (hereinafter referred to as the College), and Ector County Independent School District, (hereinafter the district), pursuant to the authority granted in compliance with section 29.908 of the Texas Education Code.

The parties to this MOU desired to establish a career and technical education Early College High School (CTE ECHS) in the fall 2015 academic year to be named Odessa Career and Technical Early College (hereinafter referred to as OCTECHS), to serve grades 9-12, and provide dual enrollment for career and technical dual credit college courses for high school students free of charge. Prospective OCTECHS students may be screened and selected through the use of a lottery system that encourages and considers applications from all students. All students will have an equal opportunity for acceptance, regardless of background or academic performance.

OCTECHS has been designated as an Early College High School (ECHS) under the authority of Texas Education Code (TEC) §29.908(b) and Texas Administrative Code (TAC) §102.1091. The designation and requisite process ensures that the district and the college maintain the integrity of the ECHS model, which was researched and designed to target and serve students who might not otherwise attend college. The district must renew the designation annually.

Early College High Schools are small schools with enrollments between 400-500 or fewer students (100-125 students per grade cohort) which provide students the opportunity to earn both a high school diploma and up to 60 semester credit hours of transferable college credits and/or an associate's degree. The ECHS will:

- provide dual credit at no cost to students;
- offer rigorous instruction and accelerated courses;
- provide academic and social support services to help students succeed;
- increase college readiness; and
- reduce barriers to college access.

Furthermore, the district and the college will:

- Establish a mutually beneficial partnership between College and ECISD that allows a flexible and creative response to the organizational, missions, and fiscal needs of both institutions.
- Collaborate in planning, implementation, and continuous improvement of Early College High School programs including the provision for faculty, staff, and administration, curriculum development; training and student services.
- Commit to financial collaboration that addresses costs of both partners and assists each in obtaining necessary funds from local, state, federal and private and/or foundation sources to operate the program successfully.
- Provide classes and activities of the Early College High School on the OC campus with students integrated on an age-appropriate basis in campus facilities and college co-curricular activities.
- Commit to shared use of facilities including classrooms, labs, offices and libraries that reduces operating costs and promotes collaboration of students, faculty, staff, and community members in program success.

- Select of students based on the framework provided in the Texas Education Agency ECHS Blueprint.

Students enrolled in OCTECHS will be enrolled courses of study which enable the student to combine high school courses and college-level courses to complete an applied associate degree or at least 60 semester credit hours toward a workforce ready degree or an applied baccalaureate degree. The College will offer the following courses of study:

- Associate in Applied Science
 - Automotive Technology
 - Business Leadership
 - Criminal Justice
 - Culinary Arts
 - Diesel Technology
 - Energy Tech: Instrumentation & Electronics Technology
 - OSET: Occupational Safety & Environmental Technology
 - Welding Technology
 - Paralegal
 - Construction Management
 - Child Development

The dual credit college courses for high school students will be offered in accordance with Chapter 4 of the Texas Higher Education Coordinating Board Rules, as codified under Title 19, Part 1, Chapter 4 of the Texas Administrative Code.

LOCATION

OCTECHS is located at:
 Odessa College
 201 W University Blvd
 Odessa, TX 79764

High school and college courses will be conducted at OC. The College shall provide office and classroom spaces for use by ECHS faculty and staff. The College and the District will review invoiced facility fees on an annual basis and update as necessary. The College will invoice the district annually in May. OCTECHS students, faculty, and staff shall have access to instructional and non-instructional resources available on the campus of OC including but not limited to the cafeteria, the learning resource center (library and tutoring), the campus (student) center, the sports center, performing arts and sporting events.

OCTECHS students, instructors, and staff will receive a College identification cards, and will have access to instructional and certain agreed upon non-instructional resources and services available on Campus. College resources and services will be available to support curricular and co-curricular success and engagement. The District and College will evaluate the facilities and access annually to determine the need for adjustment.

OPERATING HOURS AND INSTRUCTIONAL CALENDAR | OCTECHS will operate within the normal operating hours of the college during a regular school day. The District will align the ECHS academic calendar with the college calendar to minimize missed instructional days due to student holiday and district professional development.

FUNDING, COSTS, TEXTBOOKS AND TRANSPORTATION | The College and the District will identify tuition and fees to be paid by the District (at no cost to the students) in an annual invoice. The college and the district will review the tuition and fees annually and update as necessary.

OCTECHS will generate Average Daily Attendance (ADA) funds for the School District from the attendance of students, which will be used to provide funding for the operations and expenditures of the high school as authorized by the Texas Education Code.

The College will generate state contact hour funding which will be used to provide supplemental funding for the operations and expenditures.

Changes to the funding formula for either the District or the College will be reviewed annually to determine whether adjustments are needed. Adjustments will be communicated in the spring semester to align with the District and College budget processes.

All College textbooks, including Open Educational Resources (OER) and associated fees, as well as supplemental materials required for College courses will be provided by the District. College approved textbooks purchased by the District may be used for the time period consistent with College practices.

The College and the ECHS leverages Blackboard, an online learning management system (LMS), in every course regardless of modality. The LMS is used for assignments, assessments and grading. Additionally, Blackboard allows college and district personnel to monitor student pace and progress, ensuring timely intervention and support. As such, the Early College High School agrees to distribute District issued laptops to all ECHS students.

The District will provide transportation (school bus) to students enrolled at OCTECHS as required under State law and School District rules and procedures.

The District will provide meals for students as appropriate under State and Federal Law and School District rules and procedures. OCTECHS students may purchase food from the College's food service provider.

TESTING | The College will administer the Texas Success Initiative (TSIA) college placement exam, free of charge, to all incoming ninth (9th) graders to assess college readiness and to enable students to begin college courses based on their performance as soon as students are able and ready. Subsequent dates for TSIA college placement exams will be coordinated, scheduled and provided by the College free of charge.

GRADING | Grading periods and policies are delineated in the ECISD Student Handbook which is found online at www.ectorcountyisd.org. The College grading periods and policies are delineated in the College Catalog which is found online at www.odessa.edu.

College instructors shall provide the ISD with a numerical grade equivalent to the corresponding letter grade awarded to the student. The College and all instructors shall work with the District to ensure that numerical grades are provided on a timely basis. The parties acknowledge that certain reports may be due at a time when no new college work has been performed by the student. The

College agrees to report a grade for each student to the District at each nine weeks grading interval. The College and District agree to share necessary student records as appropriate for scheduling and advising of students.

The College recognizes that District's students participating in these classes may also participate in UIL-sanctioned activities. Accordingly, the College and all instructors shall work with the District to ensure that numerical grades are provided on a timely basis. The parties acknowledge that certain reports may be due at a time when no new college work has been performed by the student.

OCTECHS students are expected to meet academic standards for coursework completed at the high school and at the College. Students who do not meet satisfactory academic progress outlined by the District and the College are subject to academic intervention and remediation including academic probation and academic suspension. Academic probation and suspension may limit continued enrollment in college courses and may result in removal from OCTECHS.

CURRICULUM ALIGNMENT | OCTECHS and the College will provide a rigorous course of study that enables students to receive a high school diploma and complete a workforce ready Associate of Applied Science degree or at least 60 credit hours towards an applied baccalaureate degree during grades 9-12. OCTECHS will provide students with academic, social, and emotional support in their course of study. The College will regularly update the OCTECHS principal regarding College curricular changes. OCTECHS is responsible for ensuring that state course requirements for high school graduation are fulfilled.

The college and the district will use existing course equivalency crosswalk agreements for each degree plan – equating high school courses with college courses and the number of credits that may be earned for each course completed through the dual credit program. College courses have been evaluated and approved through the College curriculum approval process and will be taught at the College level. College academic policies and procedures will apply to dual credit courses.

INSTRUCTORS AND CLASS SIZE | Dual credit instructors must meet the College's academic requirements for all academic dual credit courses. The District will be responsible for the evaluation and assessment of instructors and staff for high school credit-only courses conducted at OCTECHS. The College will provide instructors who meets the College's academic requirements for dual credit courses. The College will be responsible for the evaluation and assessment of instructors and staff for college credit courses conducted at OCTECHS. Standard College minimum and maximum class enrollment may be required and exceptions will require College approval. The College uses a hybrid course modality for the majority of transfer-level courses. These courses meet face-to-face for one-half of the required college contact hours. To maintain consistency in schedules and ensure the virtual contact hours are met, students enrolled in hybrid courses will be assigned Dual Lab periods. The District will provide a certified teacher to facilitate Dual Lab class periods, monitor student pace and progress, and communicate to the ECHS and to the College accordingly.

OCTECHS and the College will provide opportunities for OCTECHS teachers and higher-education faculty to collaborate through planning, teaching, and professional development.

When scheduling ECHS students for college and high school courses, all efforts will be made to follow the low student teacher ratio for high school and college class size due to facility limitations and program requirements. This is consistent with the college's philosophy of prioritizing teaching and

learning while leveraging AVID high engagement strategies to foster a safe and open culture, with high expectations for teachers and students, and collaboration in all learning spaces. Furthermore, the district will staff the ECHS appropriately to mitigate over-crowding and maintain the cohort model outlined in the TEA ECHS blueprint. Being that AVID is supported by the College and the District, the ECHS will provide AVID as a high school course for all students.

COLLEGE ADMISSION AND ENROLLMENT IN COURSES | OCTECHS students must meet dual credit admissions and eligibility requirements as outlined by the Texas Higher Education Coordinating Board laws and regulations, the Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter D, Rule § 4.85.

OCTECHS students must meet the same requirements and pre-requisites as all College students for college classes. Academic placement is based TSI scores. OCTECHS students are required to meet TSI requirements when changes to the exemption scores occur at the State or College level to comply with policy.

Continued enrollment is contingent upon OCTECHS student's maintaining satisfactory academic progress.

DATA SHARING | FERPA allows protected student data to be exchanged between the College and the District for students that are dually enrolled without the consent of either the parents or the student under § 99.34. If the student is under 18, the parents still retain the right under FERPA to inspect and review any education records maintained by the School District, including records that the College disclosed. The College and the District are expected to meet FERPA requirements to maintain the privacy of student data.

The College and the District will identify student data reports that are critical to student success, and will provide data reports upon request or per a data timeline. District and College personnel will be responsible for securely distributing and receiving data via a secure process. Student level data shall not be shared outside without prior authorization from the data source.

ADVISING AND TRANSFERABILITY | The College's ECHS liaison will provide comprehensive advising and pathway planning services for OCTECHS students. The ECHS liaison serves as the designated College support services staff and will provide orientation, advising, registration, and college bound programming, as well as coordination of Section 504 of the Rehabilitation Act and the Individual with Disabilities Education Act. The ECHS liaison serve as the academic early alert liaison for college faculty teaching ECHS courses, and will work closely with the OCTECHS principal and counselor to provide student, academic intervention and remediation as necessary. Each ECHS will have a designated liaison.

The College will advise OCTECHS students as to the transferability and applicability to applied baccalaureate degree plans of all college credit offered and earned.

ATTENDANCE IN COLLEGE COURSES | OCTECHS students are required to maintain regular and punctual attendance in class and laboratories to meet the required number of contact hours per semester.

STUDENT CONDUCT | OCTECHS are subject to discipline and appropriate sanctions up to and

including suspension and expulsion from the College. The student code of conduct and sanctions are outlined in the College student handbook. OCTECHS students who receive a sanction of suspension or expulsion from the institution must be removed from the college course and placed in a high school credit course or a traditional high school setting by the District. Further, Odessa College reserves the right to refer cases to the Behavioral Intervention Team for review and threat assessment.

DISCONTINUATION OF ECHS OPERATIONS | Should the District or College elect to discontinue the operation of the OCTECHS the provisions for serving the students will include the following:

- Students in the 9th and 10th grade will be received by the designated comprehensive high school in the district.
- Students in 11th and 12th grade will continue enrollment at OCTECHS and in college course through scheduled graduation.

INDEMNIFICATION | To the extent permitted under Texas law and without waiving any defenses including governmental immunity, each part to this MOU agrees to be responsible for its own acts of negligence, which may arise in connection with any all claims for damages, costs and expenses to person or persons and property that may arise out of or be occasioned by this MOU or any of its activities or from any act or omission of any employee or invitee of the parties of this MOU. The provisions in this paragraph are solely for the benefit of the parties to this MOU and are not intended to create or grant any rights, contractually or otherwise to any third party.

TERM | Subject to prior termination or revocation of this MOU, the initial term of this MOU is in full force and effect for a period of one (1) year. This MOU begins on the date of signature by both parties and continues through the initial term and any subsequent renewal terms. It may be renewed for (2) one-year terms. At least one hundred twenty (120) days before the expiration of the initial term and any subsequent renewal terms, OC shall review this MOU and ECISD may renew this MOU on approval of OC.

RIGHT OF REVOCATION | Either party may terminate this MOU on 120 days' written notice to the other party. Termination may occur upon the breach of this MOU by one of the parties. A breach of this MOU includes, but is not limited to, a violation of the policies and rules of the OC, the making of a misrepresentation or false statement by one of the parties, nonperformance of the party's duties, or the occurrence of a conflict of interest between the parties. Each party has 30 days to cure the breach. If this MOU is terminated during an academic term, students enrolled in classes under this MOU will be allowed to finish their coursework and receive appropriate course credit.

ASSIGNMENT | Neither party may assign their interest in this MOU without the written permission of the other party.

LIMITATIONS OF AUTHORITY | Neither party has authority for an on behalf of the other except as provided in this MOU. No other authority, power, partnerships, use of rights are granted or implied.

This Agreement represents the entire Agreement by and between the parties and supersedes all previous letters, understanding or oral agreements between OC and ECISD. Any representations, promises, or guarantees made but not stated in body of this Agreement are null and void and of no effect.

Neither party may make, revise, alter or otherwise diverge from the terms, conditions or policies which are subject to this Agreement without a written amendment to this Agreement.

Neither party may incur any debt, obligation expense, or liability or any kind against the other without the other's express written approval.

WAIVER | The failure of any party hereto to exercise the rights granted them herein upon the occurrence of any of the contingencies set forth in this Agreement shall not in any event constitute a waiver of any such rights upon the occurrence of any such contingencies.

APPLICABLE LAW | This Agreement and all materials and/or issues collateral thereto shall be governed by the laws of the State of Texas applicable to contracts made and performed entirely therein.

VENUE | Venue to enforce this Agreement shall lie exclusively in Ector County, Texas.

MISCELLANEOUS PROVISIONS | Neither party shall have control over the other party with respect to its hours, times, employment, etc. However, OC operational hours and calendar shall take precedence.

The parties warrant that their mutual obligations shall be performed with due diligence in a safe and professional manner and in compliance with any and all applicable statutes, rules and regulations. Parties to this MOU shall comply with all Federal, State, and local laws.

If the Texas Higher Education Coordinating Board adopts new guidelines or Early College High School programs during the term of this MOU, the new guidelines shall prevail.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
ODESSA COLLEGE AND ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT**

EXECUTED in duplicate original counterparts effective upon the date indicated above.

ODESSA COLLEGE

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT

President

Superintendent

Date

Date

**ODESSA CAREER & TECHNICAL EARLY COLLEGE HIGH SCHOOL | INVOICE –
Academic Year 2023-2024**

During each academic year, the ECHS, the college, and the district leadership will collect and analyze budget data, including but not limited to tuition, fees, state funding, salaries, facilities, and operating expenses to develop a sustainable cost-sharing model for the ECHS. The following costs are based on the 2023-2024 academic year activities of the ECHS and shall be due and payable by the district on December 1, 2024.

The parties agree that the district shall pay 25 percent of the previous year’s total compensation, including benefits, of the Early College High School Liaison employed by OC. Due to increased enrollment at OCTECHS, Odessa College has added an additional ECHS liaison FTE. Each ECHS will have a designated liaison. As such, each ECHS will fund 25% of the ECHS liaison’s total compensation. OC will invoice the district as shown below:

Annual Salary (FY2023-24)	\$108,650
Benefits	\$21,730
TOTAL COMPENSATION x 25% (due and payable by Dec.1, 2024)	\$32,595

CLASSROOM AND OFFICE FACILITIES | OC and ECISD have identified facility fees for the academic year 2023-24. OC will invoice ECISD for facility fees as shown below:

Amortization of Constructed Facility (18,807 sq. ft. net assigned): LRC addition & renovations (excluding deferred maintenance items absorbed by OC)	20 Year Amortization of \$1,380,000	\$69,000
Custodial Services (18,807 sq. ft. of net assigned space)	\$0.097 per SF per mo. for 10 mos.	\$18,243
Electricity, Gas, Water, Sewer	\$1.53 per SF annually	\$23,979
Facility Support, including security, insurance, technology infrastructure, maintenance, grounds, parking	\$0.12 per SF per month for 10 mos.	\$22,569
TOTAL FACILITY FEE (due and payable by Dec. 1, 2024)		\$133,791

TUITION AND FEES | OC and ECISD will identify tuition and fees to be paid by ECISD (at no cost to the students) based on actual enrollments and foregone tuition (at dual credit rates). Upon the third attempt in a course, the student will be liable for tuition and fees. The tuition and fee calculation will occur at the conclusion of the current academic year. Odessa College has implemented financial aid for Swift Transfer this year. As a result, those savings to the district will be reflected in the invoice. This change results in significant savings to the district totaling \$266,532 related to the 2023-2024 academic year. OC will invoice ECISD for the following tuition and fees related to the 2023-2024 academic year that will be due and payable by December 1, 2024.

INVOICE (continued)

Academic Semester	Sem. Credit Hours	Tuition \$55/SCH	Activity Fees \$2/SCH	OER & Course Fees	FAST Savings	TOTAL NET
Fall 2023	3,043	\$167,365	\$6,086	\$24,311	(156,123)	\$41,639
Spring 2024	2,205	\$121,275	\$4,410	\$21,561	(110,409)	\$36,837
TOTAL TUITION & FEES (due and payable by Dec. 1, 2024)						\$78,476

Traditionally, the District pays annual tuition and fees in arrears. In 2024=25, the District will pay fall 2024 tuition in December 2024 and spring 2025 tuition in May 2025. The College will bill the district after the census date for fall 2 (2024) and spring 2 (2025).



**REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING
BETWEEN ECTOR COUNTY ISD AND THE UNIVERSITY OF TEXAS
PERMIAN BASIN FOR ACADEMIC DUAL CREDIT**

This Memorandum of Understanding between Ector County ISD and UTPB is designed to allow high school students an opportunity to earn dual high school credit and college credit.

Tuition costs for dual credit hours are \$55 per semester credit hour. This price is down from \$100 per the Financial Aid for Swift Transfer (FAST) tuition rate adopted by the Texas High Education Coordinating Board (THECB) for Fiscal Year 2024. ECISD utilizes state Career and Technical Education (CTE) funds to pay the tuition for CTE dual credit courses.

This agreement will be in effect from August 1, 2024, until July 31, 2025.

**The University of Texas Permian Basin
Memorandum of Understanding
Academic Dual Credit
Fall 2024–Summer 2025**

This Memorandum of Understanding (“MOU”) is entered into by and between The University of Texas Permian Basin (“UTPB”) and Pre, “ECISD”, pursuant to section 29.908 of the Texas Education Code.

1. Term

The term of this agreement is August 1, 2024 through and including July 31, 2025.

2. Recitals

NOW, THEREFORE, the parties to this MOU mutually agree to the following:

3. MOU Purpose

The purpose of this MOU is to outline the roles and responsibilities of the University and the School Districts that participate in the Academic Dual Credit Programs at UTPB. This MOU is the agreement that encompasses all programs and initiatives under the Academic Dual Credit Programs as required by the Texas Higher Education Coordinating Board (THECB). An additional Memorandum of Understanding is required by the Texas Education Agency for Early College High Schools, T-STEM and P-TECH schools.

4. Non-Discrimination

The University of Texas Permian Basin is committed to providing an educational, living and working environment that is welcoming, respectful and inclusive of all members of the university community. An environment that is free of discrimination and harassment allows members of the university community to excel in their academic and professional careers. To the extent provided by applicable federal and state law, the University prohibits unlawful discrimination against a person because of their race, color, religion, sex, national origin, age, disability, genetic information, or veteran status. The University's commitment to equal opportunity extends its nondiscrimination protections to include sexual orientation, gender expression and gender identity. For more information, please visit UTPB's Non-Discrimination Policy: <https://www.utpb.edu/life-at-utpb/campus-safety/non-discrimination-policy>

5. Recognition of Higher Education Partner

The School District, when reporting and publicizing high school students' completion of academic dual credit courses, will recognize all Higher Education partners, including The University of Texas Permian Basin. Furthermore, when the School District advertises and/or publicizes including but not limited to, designations, awards received, tuition saved, and articles written in social media, television commercials and print ads for dual credit, the School District

will recognize The University of Texas Permian Basin as their Higher Education partner. The following statement must be included in all the School District's publications and/or advertisements in regards to the Academic Dual Credit Programs: "Ector County ISD" collaborates with The University of Texas Permian Basin, our Higher Education partner, to offer University credit hours, while saving families hundreds of thousands of dollars in reduced costs in tuition and fees." In addition, the School District shall adhere to the format and style of all advertising, marketing, reporting, and publicity materials, which includes billboards, print ads, and television commercials, as set forth in the University's Branding, Marketing, and Advertising Guidelines for The University of Texas Permian Basin at https://www.utpb.edu/university-offices/communications-and-marketing/images/ut-permian-basin-brand-guidelines_updated-04012019.pdf. Failure to follow this provision will result in a non-compliance notification as stated in Section 23 of this document.

6. Academic Policies and Procedures

Regular academic policies and procedures applicable to regular University courses and students will also apply to dual credit courses and dual credit students.

a) Eligible Courses

Academic courses offered by the University for dual credit are developed based on the guidelines published by the Texas Higher Education Coordinating Board in the Academic Course Guide Manual. The University does not offer remedial, kinesiology, or developmental courses for dual credit.

b) Faculty Qualification, Selection, Supervision, and Evaluation

The University has established an approval process for selecting and/or approving qualified School District faculty (those approved will herein be called "Dual Credit Faculty") to teach dual credit course(s). Each approved Dual Credit Faculty will be supervised by the University's respective department chair or designee and be evaluated and monitored to ensure quality of instruction and compliance with the University's policies and procedures in accordance with the standards established by the State of Texas and the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC). For a comprehensive view of the Faculty Credentials and Qualification, Selection, Supervision, and Evaluation process, refer to the UTPB Academic Affairs Handbook (AAH).

- i. The School District will collaborate with the University to ensure that the School District instructor applying to teach in the Academic Dual Credit Program meets the credential requirements.
- ii. The University will ensure that University Faculty requested to teach dual credit courses at the School District sites have met acceptable national criminal background checks.
- iii. School District faculty approved as Dual Credit Faculty must be cleared by the University's Office of Human Resources to teach any dual credit courses.

- iv. Dual Credit Faculty will submit all required reporting documents such as rosters, learning outcome results, syllabi/section outlines, and grades by the deadlines set by the University.
- v. New Dual Credit Faculty approved for the upcoming Academic Year must satisfactorily complete Canvas LMS and Quality Measures Trainings offered through the University's Falcon Online Department prior to or during their first semester teaching Academic Dual Credit Program courses.
- vi. University and UTPB Dual Credit Faculty teaching dual credit courses should check their class rosters during the first week of classes to make sure that all students attending the class are enrolled in the dual credit course. Refer students not on the roster to the appropriate School District counselor and the Dual Credit Department. Any student not listed on the roster by the 12th day of class (Census Day) will not be enrolled in the dual credit course.
- vii. The School District will allow release time from School District duties for all Dual Credit Faculty to attend required University departmental meetings, discipline and course-specific professional development training. The department chairs will provide meeting schedule information to the Dual Credit Faculty before the beginning of the semester, so that the Dual Credit Faculty can coordinate his/her teaching responsibilities at the high school in order to attend required department meetings.
- viii. University Faculty and UTPB Dual Credit Faculty teaching University-level courses are expected to reach out to students who need academic assistance and direct them to the appropriate University or School District support services.
- ix. The School District will forward any concerns regarding UTPB Dual Credit Faculty or University Faculty teaching the University-level course to the University Department Chair for investigation. To resolve the concerns, a meeting shall take place between the University Department Chair (and/or designee) and the School District Principal (and/or other designated high school administrator) to discuss the issues and reach a decision that is mutually agreeable.
- x. Online students shall be informed that they are able to access the online course at any time, not only during a designated time at the high school.
- xi. Even though Academic UTPB Dual Credit Faculty members are full-time employees of the School District wherein they teach the University course(s), they are expected to follow all the University's policies as applicable during the instructional time designated for dual credit courses. Because Dual Credit Faculty are employed by both the University and the School District, they are confronted with unique challenges, but should have the same rights, responsibilities, and privileges as University Faculty teaching a dual credit course

at a high school site. They must fulfill their responsibilities as UTPB Dual Credit Faculty while acting in accordance with the expectations, policies, and responsibilities required by their School District and Principal.

xii. UTPB Dual Credit Faculty Rights and Responsibilities when teaching a Course for the University:

- **Course Work:** The rigor of University course work can often require additional time outside of class for students to meet course learning objectives and outcomes; therefore, UTPB Dual Credit Faculty should not be coerced to decrease the amount of out-of-class work assigned to students.
- **Issuing of University Grade:** UTPB Dual Credit Faculty shall not inflate the University letter grade, which might differ from the high school numeric grade.
- **Contact Hours Pertaining to Dual Credit Students:** Just as UTPB Dual Credit Faculty are expected to meet the required number of contact hours per semester, students enrolled in dual credit courses are required to maintain regular and punctual attendance in classes and laboratories. The student is responsible for communicating with faculty members concerning any absence. The student may be required to present evidence to support an absence, and make-up work for class absences will be permitted only as specified by the faculty in the course syllabus.
- UTPB Dual Credit Faculty must not be coerced to take unreasonable measures to help a student who, in the estimation of the Faculty member, is failing the course due to a lack of effort and/or excessive student absences.

c) Location, Facilities, Teaching Environment, and University Courses

The location of dual credit courses will be held at approved high school sites in accordance with SACSCOS standards.

i. University Courses

Faculty teaching dual credit courses must use the University's approved Learning Management System. The University maintains security measures to protect faculty and students while learning in an online environment.

ii. Course Delivery at High School

The School District will ensure that all academic dual credit courses taught by UTPB Dual Credit Faculty are conducted through face-to-face instruction, except when a State of Emergency is activated, is when a UTPB Dual Credit

Faculty may be approved to conduct online instruction to adhere to the University's Instructional Guidelines, using the University's Learning Management System.

iii. Online Method of Delivery

UTPB offers one method of delivery via online Learning Management System.

An electronic course is defined as a course in which instruction and content are primarily over the Internet; a student and teacher are in different locations for a majority of the student's instructional period; most instructional activities take place in an online environment; the online instructional activities are integral to the academic program; extensive communication between a student and a teacher and among students is emphasized; and a student is not required to be located on the physical premises of a school district or open-enrollment charter school.

iv. Facilities

The School District will work with the University to ensure that the School District's facilities meet the expectations and criteria required for University classes and are appropriate for University-level instruction by the first day of class including the following:

- School District will ensure that University Faculty and dual credit students have appropriate access to all available instructional facilities, resources, and essential technology;
- School District shall permit access to the University's electronic learning resources when the course is taught at the School District; and
- School District offering science courses shall meet the laboratory safety standards and have material/equipment required for University courses available in all labs in which classes are being taught to comply with the University science program requirements.

v. Teaching Environment

The School District will ensure that the classroom environment is conducive to University level learning by:

- Designating a classroom for the dual credit classes;
- Displaying signs outside of the classroom that indicate "University Course is in Session";
- Assuring no interruptions take place in the University dual credit class while in session, such as removing students for high school activities, or

making announcements except for official business or emergencies. Interruptions for official announcements must be minimized; and

- Accepting the faculty member's attendance requirements as stated in the course syllabus.

d) Course Curriculum, Instruction, and Grading

School Districts that participate in the Academic Dual Credit Programs at the University will comply with procedures and guidelines as published by the University, including the following:

i. Academic Instructional Calendar

Dual credit classes will follow the University Academic Calendar. Exceptions may be arranged through collaboration between the University and the School District. When the requested exception involves the Final Exam Schedule for long semester classes, the College Department Chair and Division Dean should be involved in any decision. The University requires that the Division Dean approve any exception. Notification of conflicts between mandatory State testing and final exams must be made well in advance of final exams. University courses and exams should take reasonable priority over School District activities.

ii. Monitoring Instruction

The School District will work with the University so University personnel will have the opportunity to monitor the quality of instruction in compliance with the University course syllabus and the standards established by the State of Texas, SACSCOC, and the School District.

iii. Books and Supplemental Materials

Courses offered for dual credit will be identified in the course schedule as University-level courses. Instruction and materials for dual credit courses will be equivalent or identical to courses taught to traditional university students. When possible, UTPB will: (i) utilize open resource textbooks for all dual credit courses, and (ii) utilize the same textbook for multiple years. District shall be responsible for providing all academic textbooks to students.

iv. Grading Procedures

All UTPB Dual Credit Faculty will follow the University Grading System as well as the grading criteria in the department approved syllabus. The University recognizes that certain of the district's students participating in dual credit classes are also participating in UIL-sanctioned activities. Accordingly, the University and all instructors shall work with the District to ensure that numerical grades are provided on a timely basis. The parties

acknowledge that certain reports may be due at a time when no new coursework has been performed by the student.

v. Submission of University Grade

The primary responsibility for assigning University grades in a course belongs to the faculty member, and in the absence of compelling evidence of discrimination, differential treatment, or procedural irregularities, the judgment of the faculty member responsible for the course must remain determinant. University and School District officials will not interfere with the faculty member's responsibility for assigning University grades. The final course grade for the University will be a letter grade and for the high school a numeric grade that might differ from the University grade.

vi. Grade Appeal

The School District will direct students to follow the University's Grade Appeal process. An electronic copy of these documents may be accessed on the Student Services Department webpage at the following link:

<https://www.utpb.edu/life-at-utpb/student-services/dean-of-students/student-grievances>

7. Student Enrollment & Support Services

a) Student Eligibility

Beginning in the 9th grade, Texas public school students may enroll in dual credit courses for up to 15 hours per semester. Texas Administrative Code §4.85(b) identifies requirements that must be met by students who enroll in a college course for concurrent enrollment college credit.

I. Students must comply with the Texas Success Initiative as follows:

- Reading—TSIA score of 351 or TSIA2 of CRC \geq 950
- Writing—
 - a. a placement score of at least 340, and an essay score of at least 4; or
 - b. a placement score of less than 340 and an ABE Diagnostic level of at least 4 and an essay score of at least 5.
- Mathematics—TSIA score of 350

TSIA2

- Mathematics College and Career Readiness —
 - CRC \geq 950;
 - CRC $<$ 950 and Diagnostic Level = 6
- English Language Arts and Reading College and Career Readiness —

- CRC \geq 945 and Essay \geq 5;
 - CRC $<$ 945 and Diagnostic Level \geq 5 and Essay \geq 5 Diagnostic Level Range: 1-6 CRC– College Readiness Classification Test CRC Range 910-990
2. Alternatively, students may qualify under one of the following standardized exemptions from TSI requirements:
- Exemption from TSIA reading and writing:
 - Scored a 23 or higher on the ACT composite and a minimum of 19 on both the English and math tests;
 - SAT administered prior to March 2016: Earned a combined (verbal critical reading + math) SAT score of 1070, with a minimum score of 500 on both sections;
 - SAT administered March 2016 and later: Evidence-Based Reading and Writing (EBRW) minimum score of 480, Mathematics minimum score of 530 (no combined score needed);
 - TAKS scale score of at least 2200 on the math section and/or 2200 on the English Language Arts section with a writing subsection score of at least 3.

b) Library Services

UTPB shall provide dual credit enrolled student's access to the instructional and digital resources available on the campus of UTPB and ensure that all distance education students have access to library resources to support appropriately the courses in which the students are enrolled. These services include document delivery, electronic access to reference services, reserves, interlibrary loan, and a web page that includes ready links to services, contacts, and self-help modules. The library will regularly evaluate the effectiveness of resources provided to distance education students and will demonstrate that services are improved where appropriate. Instructors will provide distance education students information about library services.

c) Student Support Services

Students in dual credit courses may utilize the same or comparable academic support services that are afforded to University students on the main campus. The University is responsible for ensuring timely and efficient access to such services (e.g., academic advising), to learning materials (e.g., library resources), and to other benefits for which the student may be eligible. Currently, services available to the online students from UTPB include:

- Electronic resources, online reference services, and other services of the J. Conrad Dunagan Library;
- Writing Center assistance and tutorials with writing assignments;

- Testing Services & Academic Accommodations for ADA issues, testing services, and study skill development;
- Academic Advising;
- Technical Support for Canvas users

d) Student Policies

Regular academic policies applicable to courses taught at the University's main campus must also apply to dual credit courses, in accordance with TAC Chapter 4. These policies shall include the appeal process for disputed grades, drop policy, the communication of grading policy to students, and when the syllabus must be distributed.

e) Student Complaints

UTPB's policies and procedures for handling student academic and non-academic complaints are applicable to all students including those enrolled in distance education programs and courses. Students with complaints about distance education delivered by UT Permian Basin should follow the process described. Students who wish to file a written complaint are encouraged to submit their complaint using the University Complaint Resolution Portal located at <https://www.utpb.edu/life-at-utpb/student-services/dean-of-students/student-grievances> . If an issue cannot be resolved internally/locally, students may file a complaint about UT Permian Basin with their state of residence or the University's accrediting organization. Information on both are available at [Complaint Process - The University of Texas Permian Basin | UTPB or UTPB Complaint Management - UTPB IRD](#).

f) Student Conduct

Dual credit students must abide by the UTPB Student Code of Conduct outlined in the current Handbook of Operating Procedures.

8. Finance Support Services

a) Faculty Stipend

School District instructors approved by the University to be Dual Credit Faculty and approved to teach University level courses will be paid a stipend by the University per class, per semester, as outlined in the Academic Affairs Handbook (AAH).

b) Tuition and Fees

District shall pay \$55 per semester credit hour. Each school district is liable for making complete payment for all students before the 12th class day. Each district and or dual credit student will adhere to enrollment cancellation processes that are set in place by the University.

c) Financial Aid for Swift Transfer (Fast)

The FAST tuition rate adopted by the THECB for FY 2024 is \$55 per semester credit hour (or equivalent) and serves two purposes:

1. **Funding rate:** Participating institutions will receive an allotment of funding equal to the FAST tuition rate for each semester credit hour (or equivalent) of dual credit coursework taken by an eligible student.
2. **Maximum tuition rate:** Participating institutions that have an agreement with an ISD or charter school may not charge a per-credit tuition rate more than the FAST tuition rate to any student attending high school in a Texas school district or charter school for any eligible dual credit course offered by the participating institution. Institutions may choose to charge a lower rate for any or all dual credit coursework without impacting the funding rate indicated in #1 above.

Institutions whose tuition rate for dual credit coursework has already been set for the 2023-24 academic year at a rate exceeding the FAST tuition rate will be able to participate in the FAST program upon realigning their tuition rate to not exceed the FAST tuition rate for students attending high school in a Texas school district or charter school.

Other Course Charges

Participating institutions may charge dual credit students who are not FAST-eligible other costs, such as fees, books, or supplies. However, FAST-eligible students may not incur these charges.

Participating institutions are not prevented from entering into contracts for other course charges, such as fees, books, supplies, or professional development, to be paid for by school districts or charter schools. (<https://www.highered.texas.gov/our-work/supporting-our-institutions/community-college-finance/fast/>)

d) Invoicing

UTPB will issue an invoice to District listing all enrollments in all subject areas. District will have up 15 business days to appeal any registrations for that semester, to the Office of Accounting. District must remit payment within 30 days of receipt of invoice. Failure to pay may result in District's inability to enroll students in future courses.

e) TXVSN Enrollment

When District enroll in courses via the Texas Virtual Schools Network (TXVSN), it will follow UTPB enrollment procedures, including:

- a. Applying to and enrolling students in UTPB;
- b. Adhering to UTPB's enrollment and drop schedule; and

- c. Entering into a written agreement approved by the governing boards or designated authorities of District and UTPB.
- d. District is responsible for 100% of the course cost for each student that completes coursework. District is responsible for 70% of the course cost for each student who withdraws from a course after expiration of the designated drop period.
- e. TXVSN Central Operations will issue an invoice to District at the end of each semester based on the conditions noted above; TXVSN will remit payment to UTPB at the end of each semester.

9. Human Resources Department, Data Privacy & Sharing Agreement

The School District will collaborate with the University to ensure that all School District faculty applying to teach in the Academic Dual Credit Programs meet the credential requirements, and submit all required documents for the hiring process to the Human Resources Department as well as agree to full information sharing in the event of an investigation of a personnel matter regarding Dual Credit Faculty.

- a) Any non-academic incidents or complaints against Dual Credit Faculty teaching a University course are required to be reported to the University's Office of Human Resources to the attention of the Director for investigation.
- b) The School District will comply with Title IX of the Education Amendments 1972 (20 U.S.C. § 1681 et seq.) regulations as stated in the University's Policy on Sexual Harassment/Sexual Misconduct, and the School District Title IX policy in resolving incidents and complaints. An electronic copy of the University's policy may be accessed on following link: <https://www.utpb.edu/life-at-utpb/campus-safety/sexual-harassmentsexual-misconduct/sh-sm-policy>

Title IX Statement:

The University of Texas Permian Basin (the University) is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (SaVE Act), Violence Against Women Act (VAWA), and Clery Act. Sexual Misconduct, Retaliation, and other conduct prohibited under this Policy will not be tolerated and will be subject to disciplinary action.

The University will promptly discipline any individuals or organizations within its control who violate this Policy. The University encourages you to promptly report incidents that could constitute violations of this Policy to the Title IX Coordinator (as outlined in Section 3.1 of this Policy).

- c) The School District will designate a specific School District official that is certified as a Title IX Investigator/Coordinator to serve as the authorized liaison for The University of Texas Permian Basin Office of Human Resources. The School District official and the University's representative(s) will work collaboratively and timely to share any and all information necessary in the event of an investigation of a personnel matter.

10. Quality Control

UTPB will monitor student academic performance and quality of instruction to assure compliance with the Texas Administrative Code Title 19, Part 1, Chapter 4.

11. Student Identification

Dual credit students are eligible to receive a UTPB Student Identification Card and students who wish to obtain a UTPB Identification Card shall send an email to the UT System Police at StudentID@utpb.edu, included information should be:

- *Full name, address, and student ID number.
- *A scanned image attachment of another photo-bearing official government ID (driver's license, passport, etc.) for verification in digital (JPEG) format.
- *A scanned image attachment of a passport-quality photo (headshot with a plain background) in digital (JPEG) format.

District or student shall pay a fee of \$10.00 for the ID and will receive the ID in a prompt and timely manner.

12. UTPB Student Authentication Process

UTPB registers students for online courses using a student information system and manages access through a centralized authentication system. The learning management system in which all online courses are hosted authenticates student user accounts and passwords to the UTPB centralized authentication system. To obtain access to online courses in the learning management system, students must establish their identity through a secure login and password. At least one additional student identification technique will be required within each course. This technique is determined and approved by the Provost/Academic VP. The District principal shall notify UTPB in the event a high school does not use photo IDs. UTPB will determine an alternative means of authentication. One additional method of student authentication using an approved photo ID must be clearly stated on the course syllabus minus webcams and may include the following:

- Proctored exams using an approved photo ID.
- Presentation of approved photo ID through a web cam and optional levels of proctoring during assessment.
- Field or clinical experiences using an approved photo ID.
- Synchronous or asynchronous video activities using an approved photo ID.
- Other technologies or procedures specified by faculty in their course syllabus.

- Public school designee/facilitators can proctor an exam identifying themselves to the instructor for testing environment criteria.
- UTPB emails are a secondary form of authentication.

Dual credit students may use District identifications. Approved photo identifications are: passports, government issued identification, driver's licenses, military ID from DoD.

TEC 28.009

UTPB has aligned its goals with House Bill 1638 statewide goals as codified in Texas Education Code, Section 28.009 (b-1) and (b-2). These require the Texas Higher Education Coordinating Board (THECB), and Texas Education Agency (TEA) to collaboratively develop statewide goals for dual credit programs in Texas.

UTPB offers dual credit courses to high school students in accordance with state, legislative, and regulatory requirements, as well as the SACSCOC.

UT Permian Basin offers a course equivalency crosswalk for equating high school courses with college courses. This crosswalk identifies the number of credits that may be earned for each course completed through the dual credit program.

While UTPB offers a variety of dual credit and early college access courses, most courses are part of the Texas Core Curriculum. Core courses are transferable to any public university or college in Texas.

All courses are 3 credit hours unless noted otherwise

* ART 1301: Art Appreciation	MATH 2412: Pre-Calculus {4 credit hours}
COMM 1315: Intro to Public Speaking	MATH 2413: Calculus I {4 credit hours}
CRIM 1301: Intro to Criminal Justice	*MUSC 1301: Jazz, Pop, Rock
ECON 2301: Intro to Macroeconomics	PLSC 2305: American National Politics
*ENGL 1301: Composition I	PLSC 2306: State and Local Politics
*ENGL 1302: Composition II	*PSYC 1301: Intro to Psychology
*ENGL 2322: British Literature to 1800	*SOCL 1301: Intro to Sociology
ENGL 2323: British Literature since 1800	SPAN 1411: Beginning Spanish I {4 credit hours}
*ENGL 2327: American Literature to 1865	SPAN 1412: Beginning Spanish II {4 credit hours}
ENGL 2328: American Literature since 1865	SPAN 2311: Second Year Spanish I
*HIST 1301: U.S. to 1877	SPAN 2312: Second Year Spanish II
*HIST 1302: U.S. since 1877	COSC 1335: Computers & Problem Solving
MATH 1314: College Algebra	COSC 1430: Intro to Computer Science
MATH 1324: Applications of Discrete Mathematics	COSC 2430: Intro to Computer Science II
MATH 1332: Contemporary Mathematics I	BIOL 1308: Biology for Non-Science Majors
BIOL 1108: Biology for Non-Science Majors Lab	

UTPB offers dual credit to Early College High School and high school students across the state of Texas. Our classes are taught by SACSCOC qualified university professors. UTPB ensures the quality and instructional rigor of the dual credit program's content, which meets,

SACSCOCs requirements. Course content and rigor are comparable with similar courses that are taught to traditional UTPB students.

UT Permian Basin Dual Credit goals are listed below.

Goal 1: UT Permian Basin and its school district partner will implement purposeful and collaborative outreach efforts to inform all students and parents of the benefits and costs of dual credit, including enrollment and fee policies.

- Measures of Implementation: Examples of items to include in documentation:
 - a. UT Permian Basin and its school district partner will host informational sessions for students and parents on dual credit opportunities, benefits, and cost.
 - b. UT Permian Basin and its school district partner's webpages will reflect the most current dual credit program information including enrollment and fee policies.
 - c. UT Permian Basin will host dual credit 101 sessions for high school counselors via webinar.
 - d. UT Permian Basin and its school district partner will collaborate on a marketing campaign.

Goal 2: The Dual credit program will assist high school students in the successful transition to and acceleration through postsecondary education.

Goal 3: All dual credit students will receive academic and college readiness advising with academic support services to bridge successfully into college course completion.

- Metric: Examples of items included in analysis:
 - e. Student enrollment in postsecondary after high school
 - f. Time to degree completion
 - g. Decrease in excess number of semester hours beyond required hours to degree completion
- Analysis of measures in enrollment and degree completion, disaggregated by student sub-population.

Goal 4: The quality and rigor of dual credit courses will be sufficient to ensure student success in subsequent courses.

Metric: Award of credit and transcripts

- a) UTPB will award academic credit for courses that are listed in the core curriculum. These courses shall be evaluated in accordance with Texas Higher Education Coordinating Board and Texas Education Agency. They shall be at a more advanced and rigorous level than courses taught at the high school level.

- b) For all its programs, including those delivered through distance education, UTPB will identify expected student learning outcomes, assess the extent to which a course achieves these outcomes, and provide evidence of improvement based on analysis of the results. Additional items to be evaluated shall include but are not limited to: the effectiveness and efficiency of delivery systems, academic resources, student services, and access to faculty. Finally, students will evaluate courses delivered via distance education using the course evaluation procedures in effect for campus-based courses.

I3. Schedule Changes

Schedule changes that include additions, drops, and withdrawals will be processed based on established deadlines and must adhere to current policies and procedures.

I4. Transcribing of Credit and Student Withdrawal

A college grade shall be transcribed upon completion of the semester for the courses in which the student officially enrolled and will adhere to the current grading policy.

The school district agrees to evaluate the objectives to be achieved by students completing the UTPB dual credit courses and to transcribe the credit on the student's high school transcript accordingly.

Students may request transcripts at www.getmytranscript.com. The fee is \$7.00.

I5. Grading Periods and Policies

The university has adopted a policy that allow school facilitators observer access in Canvas. The account holder will have credentials and understand that all users of UTPB Information Resources are subject to having all such uses monitored and/or recorded by system personnel, and that anyone using UTPB Information Resources expressly consent to such monitoring and that the results of such monitoring may be provided to law enforcement personnel. Individuals will be able to follow the academic calendar for the grading periods and polices adopted by UTPB and school district.

I6. Use of UTPB Email

Use of UTPB email as primary email in distance education courses further protects student personal emails independent of their coursework and ensures the student enrolled in the online courses is using the email account assigned to that student by UTPB. University email will serve as second authentication method.

I7. Privacy

The Family Educational Rights Privacy Act (FERPA) guidelines will be followed for all students regardless of instructional environment. Submission of student work online creates an academic record that is subject to FERPA. Online posting of grades must not be viewable to other members of the online class. Exemplary works may be posted with individual student permission. Instructors must not compel online students to reveal private information to classmates. Private information includes full name, physical address, birth date, birth place, social security number, gender, race, color, marital status, religion, citizenship, immigration

status, physical image, information about family, or information a student considers too sensitive to share.

18. Data Sharing

FERPA allows protected student data to be exchanged between the University and School District for students that are dually enrolled without the consent of either the parents or the student under § 99.34. If the student is under 18, the parents still retain the right under FERPA to inspect and review any education records maintained by the School District, including records that the University disclosed. The University and the School District are expected to meet FERPA requirements to maintain the privacy of student data. The University will provide data reports to the School District via standard reports as per identified timelines. These reports have been developed in an effort to provide required data in a timely manner to our partners with a signed MOU.

The School District shall provide a primary and secondary contact, at the District and at each high school, to receive data via a secure process from the University. These contacts will be responsible for distributing data securely within their assigned area and within FERPA guidelines. Any data received from the University shall not be shared outside the District without prior authorization from the University. The School District may request data outside of the scheduled report distribution schedule provided:

- An MOU has been executed and is active between the School District and the University
- The data request is submitted, at minimum, three (3) business days prior to the requested delivery date

PLEASE NOTE: Requests are **NOT** guaranteed to be delivered by the requested delivery date and may be delayed depending on the data team's existing request volume. Requests will be prioritized depending on identified need. The School District may submit an e-mail request for reports to: chavez_mi@utpb.edu

19. Transportation

UTPB assumes no obligation/responsibility for transportation of students to and from the UTPB campus.

20. Off-site Locations Southern Association of Colleges and Schools Commission (SACSCOC) Requirement

The Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) requires Universities to report all off-site locations in which dual credit students may earn at least 25% but less than 50% of credits toward a program, in-person or via distance learning, if courses are taken on high school property. This rule does not give the University the right to manage the classroom or technology in the classroom, nor does it imply that the University will

supply learning technology. However, high schools may be subject to a site visit during SACSOC reaffirmation processes that occur every five years.

21. Decision to Non-Renew MOU Agreement

The Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) substantive change policy requires institutions to notify them of all off-campus instructional locations that require students (including dual credit and early high school students) to take courses in a place that is geographically apart and independent of the main campus location. Furthermore, institutions are required to have an approved teach-out plan that ensures equitable treatment of students when an off-campus instructional site closes. Because a decision not to renew an agreement between the University of Texas Permian Basin (UTPB) and a dual credit high school partner closes an off-campus location, the UTPB teach-out plan will ensure the University makes a good faith effort to assist affected students, faculty, administrative and support staff so that they experience minimal disruption in the pursuit of their course of study or professional careers.

If a decision is made not to renew an agreement between the University of Texas Permian Basin (UTPB) and a dual credit partner, the following proposed protections will occur:

This plan provides details regarding:

- a. administration and organization
- b. affected students
- c. maintenance of records and reports
- d. affected faculty and staff

Administration and Organization

The Administration, Provost, Program Director, and faculty of the UTPB Dual Credit Program will continue to adhere to and remain accountable for ensuring affected students, faculty, and support staff experience minimal disruption in the pursuit of their course of study or professional careers.

The University administration will provide direct support and resources to the appointed Director of Dual Credit/Early College High School in fulfilling his/her responsibilities and duties until all affected students have completed their course work.

Affected Students

The University has maintained and will continue to maintain open communication with all currently enrolled students.

A decision not to renew an agreement between UTPB and a dual credit partner prohibits students enrolled by that high school from taking dual credit courses from UTPB. In that case,

affected students will be notified by mail of the ending agreement and will be informed of their rights as follows:

1. Affected students are no longer eligible to take dual credit courses at the University
2. No additional charges/expenses will incur as a result of the ending agreement
3. Any earned credit will be recorded and remain on student transcripts
4. Affected students are entitled to a copy of their transcripts
5. All other affected student records will be kept on file following UTPB policy
6. Affected students have a right to appeal a grade
7. Grievance procedures still apply
8. Incomplete grades and ongoing agreements between the affected student and instructor will remain honored

Affected students will be notified that they can continue taking dual credit courses at UTPB if the stated agreement is renewed at a later time. Once they graduate from high school, they are eligible to apply to UTPB and complete their programs of study.

Maintenance of Records and Reports

All current records will be maintained in a secure manner to prevent loss, destruction or unauthorized use. All records will be maintained for the required specified time and will remain accessible to those with a need for access (e.g., Program Director, Provost).

The University will also continue to maintain the records listed below in accordance with the required institutional education guidelines:

- a. University catalogs, programs of study, mission and goals, curriculum and course outlines
- b. Student/Faculty records
- c. Memoranda of agreements with affiliating agencies
- d. Strategic planning documents and program/course evaluation methods

Affected Faculty and Staff

In the unlikely event that full-time faculty or staff are affected by the ending contract between UTPB and a dual credit partner, they will be notified in writing.

22. Amendment

Any change to the terms of this MOU must be presented in written form and agreed upon by both UTPB and the school district at least 30 days before any term or provision may be changed.

23. Notification of Non-Compliance and Termination of Agreement

Failure to act in accordance with any provision in this MOU will result in a Notification of Non-Compliance (Notice), which may be initiated by either party. The Notice shall be in writing and shall state in particular the alleged non-compliance. The Notice will be provided to the

University President and School District Superintendent for review and action. Failure to correct non-compliance may result in termination of this agreement.

The University of Texas of the Permian Basin
4901 E. University Blvd.
Odessa, Texas 79761

By:

Date:

Cesario Valenzuela
Sr. Vice President for Business Affairs

Ector County Independent School District

By:

Date:

Dr. Scott Muri
Superintendent, Ector County Independent School District



REQUEST FOR APPROVAL OF PERMIAN HIGH SCHOOL CHOIR STUDENT OUT-OF-STATE TRAVEL TO LONDON

The Permian High School Choir program is requesting to travel internationally to London, from May 27 – June 1, 2025. The purpose of the trip is to visit sites of musical and historical merit and to enjoy a variety of sightseeing and recreational activities. The group will consist of approximately 40 students and chaperones. Preliminary cost projections are \$3,900 per participant, and the students will be fundraising a portion of this money. The cost of the trip will cover a majority of transportation, activities, all housing expenses, and a majority of the meals. Trip insurance is required for all participants, in the event that the trip is canceled.

Exhibit A—Request for Trip Approval

Date of request: 5/13/2024

Date/time of departure: May 27, 2025 / 4:00 (a.m.) or p.m. (circle one)

Date/time of return: June 1, 2025 / 10:00 a.m. or (p.m.) (circle one)

Destination of trip: London, England

Purpose of trip, i.e., event to be attended, instructional value of the trip:
Historical, Musical + Cultural experiences
and exposure for students

Estimate of any permissible fees associated with the trip: \$ 3900

District employee sponsor and organization: Laurie Wash / PHS Choir

Number of students participating: 36 - 40

Number of chaperones participating: All Directors plus Parents plus Admin.

Name of Chaperone	Criminal History Check Requested (circle one)
Laurie G. Wash	<input checked="" type="radio"/> Yes <input type="radio"/> No
Rollie Hamby	<input checked="" type="radio"/> Yes <input type="radio"/> No
	<input type="radio"/> Yes <input type="radio"/> No

Signature of District employee sponsor: Laurie Wash

For Office Use Only

School-sponsored trip:

Approved

Denied

Reason, if denied:

Chaperone approval or denial:

Name of Chaperone	Criminal History Check Completed (circle one)	Decision (circle one)
Laurie G. Wash	<input checked="" type="radio"/> Yes No	<input checked="" type="radio"/> Approved Denied
Rollie Hamby	<input checked="" type="radio"/> Yes No	<input checked="" type="radio"/> Approved Denied
	Yes No	Approved Denied

Principal's Approval: Diana Styles 5-22-24
(Signature) (Date)

Superintendent or Designee Approval: Michael Anna Hainley 5-22-24
(Signature) (Date)

Board Approval: _____
(Signature -Required for Out-of-State Travel) (Date)



LONDON

Permian High School Choir

Tuesday, May 27th

- Arrive at the Midland Airport
- Depart on flight TBD
- Lunch in the connecting airport (on own)
- Meet at Dallas Fort Worth Airport
- Depart on flight TBD to London Heathrow Airport
- Overnight on the plane
- Dinner and breakfast on the plane

Wednesday, May 28th

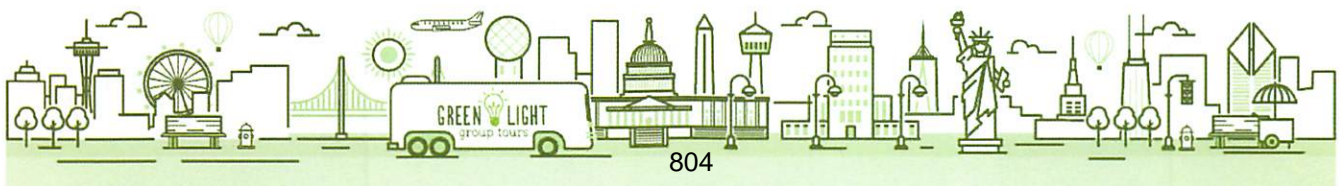
- Arrive in London, England!
- Meet your Green Light tour manager
- Board bus
- Enjoy a panoramic tour of London to include filming locations from Ted Lasso, the main sights including the Houses of Parliament, Trafalgar Square, Buckingham Palace, Piccadilly Circus, St. Paul's Cathedral and Tower Bridge
- Enjoy a Fish & Chips lunch as a group
- Take a flight on the London Eye where you will soar 130 meters high for an awesome aerial view of London
- Check into hotel
- Enjoy dinner as a group

Thursday, May 29th

- Breakfast at the hotel
- Explore the Tower of London; a palace, a prison and home of the Crown Jewels
- Shopping and lunch in Borough Market
- Take a guided tour of Shakespeare's Globe Theatre & Exhibition
- Walk through Hyde Park
- Free time to explore Piccadilly Circus
- Enjoy dinner as a group
- Return to Globe to enjoy a Shakespeare play (subject to availability)
- Arrive at the hotel

Friday, May 30th

- Breakfast at the hotel
- Take a guided tour of Westminster Abbey
- Lunch as a group
- Walk across the famous Tower Bridge
- Visit the British Museum
- Enjoy dinner as a group
- See a show in London's West End, Six the Musical (subject to availability)
- Arrive at the hotel





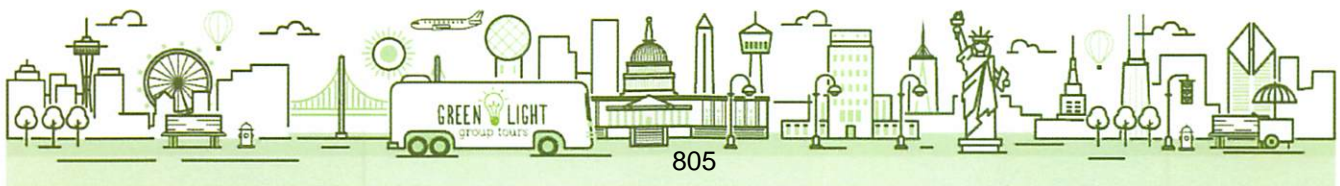
LONDON

Saturday, May 31st

- Breakfast at the hotel
- Load motorcoach for transfer to Leavesden
- Enjoy the *Making of Harry Potter* tour of Warner Brothers Studios, follow in the footsteps of Harry Potter in a behind-the-scenes walking tour featuring the sets, costumes and props that brought magic to life in the world famous films
- Lunch at the Warner Brothers Studio Cafe
- Board motorcoach, depart for London
- Free time to explore London and shop for souvenirs
- Enjoy a pre-theatre dinner as a group
- See a West End Show, *Les Misérables* (subject to availability)
- Arrive at the hotel

Sunday, June 1st

- Breakfast at the hotel
- Check out and load bus to Heathrow Airport
- Depart on flight #TBD
- Meal in connecting airport (on own)
- Depart on flight TBD
- Arrive Midland/Odessa Airport





LONDON

Ground Package Includes

- Roundtrip Airfare (**Estimated at \$1,400 per seat**)
- Motorcoach transportation in London for three of the five days
- London Travel Card
- Dedicated tour manager
- Four nights lodging in London
- Westminster Abbey
- Guided tour
- London Eye
- Piccadilly Circus
- The Tower of London
- Tower Bridge
- Shakespeare's Globe Theatre
- British Museum
- Hyde Park
- Two West End Show (subject to availability)
- Shakespeare's Globe Show (subject to availability)
- Warner Brothers Harry Potter Studio Tour
- 4 breakfasts at the hotel
- 4 lunches
- 5 dinners
- Two million dollar liability insurance policy
- Name badges with emergency phone numbers
- Nighttime hotel security, so you can sleep
- Standard trip delay protection
- Four complimentary travel packages at single occupancy

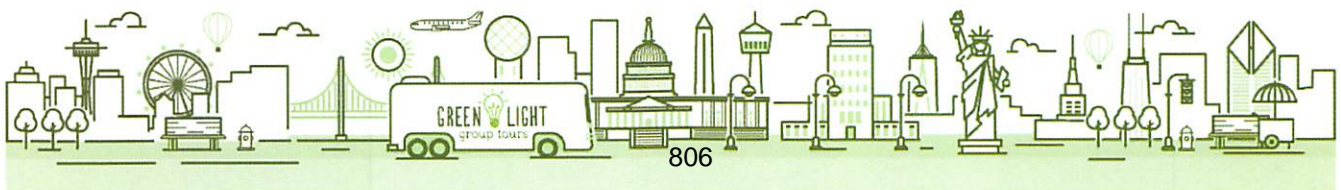
Minimum # Paying Travelers	35	40	45	50
Double	\$4,050	\$3,936	\$3,848	\$3,777
Single	\$4,650	\$4,536	\$4,448	\$4,377

**** Price is an estimate and can be confirmed 11 months in advance****

All travelers will require a passport valid until six months after the trip

Not Included

- Transportation between school and the midland/Odessa Airport
- Excess checked bag fees
- Beverages at restaurant meals (water, tea and coffee are included)
- Meals while traveling to/from London
- Snacks and souvenirs



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REQUEST FOR APPROVAL OF DATA SHARING AGREEMENT BETWEEN ECTOR COUNTY ISD AND TEXAS TECH UNIVERSITY

Administration is recommending the approval of the Texas Tech University (TTU) Data Sharing Agreement. The purpose of this agreement is to analyze and validate campus and student growth for implementation in the Principal Incentive Allotment (PIA). This philanthropic partnership will support the First in Texas PIA program that will provide Performance Based Compensation for ECISD Principals.

DATA SHARING AGREEMENT

This Data Sharing Agreement (“DSA”) is entered into by and between:

- Texas Tech University (“TTU”) and
- Ector County ISD (“ECISD”)
- TTU and ECISD may be referred to throughout individual as a “Party” or collectively as the ‘Parties.’”

A. SCOPE AND PURPOSE:

The purpose of this DSA is to establish a framework under which data from ECISD will be transferred to TTU. This DSA also establishes each party’s responsibilities associated with this transaction.

B. FERPA COMPLIANCE:

- i. If given access to education records, the Parties agree to abide by the limitations on re-disclosure of personally identifiable information from education records as set forth in The Family Educational Rights and Privacy Act (“FERPA”) (20 U.S.C. § 1232g; 34 CFR § 99.33).
- ii. Parties represent, warrant, and agree that they will:
 - 1) hold the FERPA records in strict confidence and will not use or disclose the FERPA records except as
 - a) permitted or required by this DSA,
 - b) required by law, or
 - c) otherwise authorized by Parties in writing;
 - 2) safeguard the FERPA records according to commercially reasonable administrative, physical, and technical standards that are no less rigorous than the standards by which Parties protect its own confidential information; and
 - 3) continually monitor its operations and take any action necessary to assure that the FERPA records are safeguarded in accordance with the terms of this DSA.

C. DATA TO BE TRANSFERRED:

ECISD will transfer the data listed in Exhibit A, incorporated by reference herein, to TTU.

D. DATA TRANSFER:

ECISD will transfer the data listed in Exhibit A via Secure File Transfer Protocol (“SFTP”) provided by TTU.

E. DATA PROTECTION:

- i. The data will be housed on a TTU-sponsored platform meeting TTU's Security Standards.
- ii. Data will be encrypted at rest and in transit.
- iii. Access to the data will be restricted to only authorized personnel who have legitimate educational interests.
- iv. TTU will protect the data as required by the Texas Administrative Code §202, Information Security Standards, that TTU must comply with.

F. DATA DESTRUCTION:

- i. In the event of expiration or termination of this DSA and at the Disclosing Party's discretion:
 - a. all Disclosing Party data will be returned to Disclosing Party (and any copies remaining with Receiving Party will be destroyed and confirmation of the destruction provided to Disclosing Party) or
 - b. just destroyed, and confirmation of the destruction provided to Disclosing Party.
- ii. Disclosing Party data includes all Disclosing Party information, Disclosing Party database, Disclosing Party confidential information, any backup copies, and copies stored on external/third-party hosted storage.

G. DATA USE:

Throughout the term of this DSA, and upon termination, each Party shall be solely responsible for data in its possession, and neither Party shall have the authority to access, use, or disclose transferred data for purposes other than those outlined in this DSA. The Parties agree to abide by all applicable state and federal laws and regulations with respect to access, use, disclosure, and/or disposal of data. Applicable law includes, but is not limited to, FERPA and the Texas Public Information Act (TPIA). Except as defined under this DSA, neither Party will disclose data to another Party for any reason unless required by law.

H. CONTACTS:

Contacts for the DSA are as follows:

TTU	ECISD
Jacob Kirksey Assistant Professor Educational Psychology, Leadership, and Counseling College of Education Texas Tech University Jacob.Kirksey@ttu.edu 806.834.8473	Robin Fawcett Human Resources Director Ector County ISD Robin.Fawcett@ectorcountyisd.org 432-456-0714

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A copy of all notices to TTU under this DSA shall be in writing and sent to:

Texas Tech University Procurement Services
Attn: Contract Management
Tech Plaza
1901 University Avenue, Suite 408
Lubbock, Texas 79411
contracting@ttu.edu

I. MODIFICATIONS/TERMINATION:

The term of this DSA is the same as the Agreement between TTU and ECISD and may be amended or cancelled at any time by either Party with thirty (30) days written notice.

J. GOVERNING LAW

This DSA and all of the rights and obligations of the Parties hereto and any claims arising from this DSA will be construed, interpreted, and governed by the laws of the State of Texas.

K. APPLICABLE LAWS

ECISD agrees that it will comply with all federal, state, or local laws or regulations applicable to its performance under the DSA.

L. TEXAS PUBLIC INFORMATION ACT

All information, documentation, and other material submitted for and under this DSA are subject to public disclosure under the Texas Public Information Act (Texas Government Code, Chapter 552). The Parties are hereby notified that they both strictly adheres to this statute and the interpretations thereof rendered by the Courts and the Texas Attorney General (“AG”).

M. Limitations.

THE PARTIES ARE AWARE THAT THERE MAY BE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF TTU TO ENTER INTO CERTAIN TERMS AND CONDITIONS, INCLUDING TERMS AND CONDITIONS (IF ANY) RELATING TO LIENS ON TTU’S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF TTU’S LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS’ FEES; DISPUTE RESOLUTION; INDEMNITIES; ANY PROVISION THAT CREATES AN UNKNOWN OR UNFUNDED LIABILITY; AND

CONFIDENTIALITY (COLLECTIVELY, THE “LIMITATIONS”), AND TERMS AND CONDITIONS RELATED TO THE LIMITATIONS WILL NOT BE BINDING ON TTU EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.

N. FORCE MAJEURE

“Event of Force Majeure” means an event beyond the control of ECISD or TTU which prevents or makes a party’s compliance with any of its obligations under the DSA illegal or impracticable, including but not limited to: act of God (including, without limitation, fire, explosion, earthquake, tornado, drought, and flood); war, act or threats of terrorism, hostilities (whether or not war be declared), invasion, act of enemies, mobilization, requisition, or embargo; rebellion, insurrection, military or usurped power, or civil war; contamination or destruction from any nuclear, chemical, or biological event; riot, commotion, strikes, go slows, lock outs, or disorder; epidemic, pandemic, viral outbreak, or health crisis; or directive of governmental authority. No party will be considered in breach of the DSA to the extent that performance of their respective obligations is prevented or made illegal or impracticable by an Event of Force Majeure that arises during the term (or after execution of the DSA but prior to the beginning of the term). A party asserting an Event of Force Majeure hereunder (“Affected Party”) will give reasonable notice to the other party of an Event of Force Majeure upon it being foreseen by, or becoming known to, Affected Party. In the event of an Event of Force Majeure, Affected Party will endeavor to continue to perform its obligations under the DSA only so far as reasonably practicable.

O. BREACH OF CONTRACT

If applicable, the dispute resolution process provided for in Texas Government Code Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260 will be used by TTU and ECISD to attempt to resolve any claim for breach of contract made that cannot be resolved in the ordinary course of business. The

P. EXECUTION OF UNDERSTANDING:

The undersigned authorize this cooperative understanding under the aforementioned terms.

TEXAS TECH UNIVERISTY:

ECTOR COUNTY ISD:

Jennifer Adling
Assistant Vice President & Chief
Procurement Officer
Texas Tech University

Date

Date

EXHIBIT A

Data To Be Transferred By ECISD To TTU

The data listed above represent potential categories and elements that could be provided for the evaluation of the Principal Incentive Allotment program, contingent upon their availability and accessibility within district records. It is important to note that the inclusion of specific datasets in the evaluation process will depend on their existence and the district's capacity to compile and transfer such data securely.

1. **Principal Demographics and Background Information:**
 - Name and identifier (e.g., ID number)
 - Age and gender
 - Educational background (degrees, certifications)
 - Years of experience in education and in leadership roles
2. **School Characteristics:**
 - School identifier (e.g., ID number)
3. **Student Characteristics:**
 - Demographics (e.g., race/ethnicity, free/reduced lunch eligibility)
 - Standardized test scores of students
 - Graduation information (for high schools)
 - Attendance rates
 - Disciplinary actions
4. **Teacher Characteristics:**
 - Attendance rates
 - Retention/turnover
5. **Teacher and Principal Performance Evaluations:**
 - Performance or observation ratings (e.g., T-TESS)
 - Qualitative feedback from teachers and staff
 - Parent and student surveys about school leadership

Validation of Principal Incentive Allotment Program

between

**Ector County ISD and Texas Tech University's Center for Innovative Research on Change,
Leadership, and Education**

Contact Information

Dr. J. Jacob Kirksey

Assistant Professor of Educational Leadership (Policy)

Texas Tech University

Box 41071

Lubbock, TX 79409-1071

Tel: 806-239-6264

Email: Jacob.Kirksey@ttu.edu

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Executive Summary

The purpose of this contract (the “Agreement”) between Ector County Independent School District (ECISD) and the Texas Tech University Center for Innovative Research on Change, Leadership, and Education (CIRCLE) is to facilitate the validation and enhancement of ECISD's Principal Incentive Allotment program. Under the guidance and expertise of Dr. J. Jacob Kirksey from CIRCLE, this partnership aims to strengthen the program's impact on educational leadership within the district.

The key activities and services under this contract encompass:

1. **Validation and Evaluation:** Dr. Kirksey will conduct a comprehensive summative evaluation of the Principal Incentive Allotment program. This involves developing and applying specialized validation tools and methodologies to assess the program's effectiveness and its alignment with ECISD's goals for educational leadership.
2. **Ongoing Consulting Support:** Dr. Kirksey will provide continuous consulting services to ECISD, aiding in data interpretation, program adjustment, and ensuring that the program remains effective and responsive to the evolving needs of the district.
3. **Development of Annual Assessment Tools:** If requested, CIRCLE, led by Dr. Kirksey, will assist ECISD in the creation and refinement of an assessment tool for the Principal Incentive Allotment program. This ensures the program's ongoing relevance and effectiveness in identifying and rewarding exemplary leadership within the district.
4. **Budget and Timeline:** The total cost for these comprehensive services is set at \$10,000, to be paid to CIRCLE by November 30, 2024. The Agreement’s services will commence on June 21, 2024 and continue until November 30, 2024, encompassing both the initial validation process and subsequent consulting support.

This partnership between ECISD and CIRCLE, led by Dr. Kirksey's expertise, is geared towards fostering a robust and effective leadership environment in ECISD, ultimately contributing to the improvement of educational outcomes and practices within the district.

Appendix A: Technical Response to Statement of Work

a. Evaluation Planning and Implementation

This Agreement is made by and between the Texas Tech University Center for Innovative Research on Change, Leadership, and Education (hereinafter referred to as "CIRCLE") and Ector County Independent School District (hereinafter referred to as "ECISD").

WHEREAS, CIRCLE agrees to provide validation and consulting services for ECISD's Principal Incentive Allotment program, and ECISD agrees to compensate CIRCLE for these services;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. Scope of Services:

- a. CIRCLE will conduct a summative evaluation/validation of ECISD's Principal Incentive Allotment program.
- b. CIRCLE will provide ongoing consulting support related to the program.
- c. ECISD may request a validation tool to annually assess principals for designation under the Principal Incentive Allotment program.

2. Timeline:

- a. The services under this Agreement shall commence on June 21, 2024 and conclude on November 30, 2024.
- b. The summative evaluation/validation report will be provided by CIRCLE to ECISD by October 31, 2024.

DATE	ARTIFACT/ACTION	NOTES
Spring 2024	ECISD receives data analysis tool created by Dr. Kirksey using 22-23 data to model.	Creation of the tool allows for the analysis of the data to determine if an additional parameter may be needed <i>i.e.</i> in the case of a tie. We think a possible category that weighs the number of students served in order to ensure equity, as well.
Sept 2024	23-24 Campus Growth Data finalized and entered into the data analysis tool.	ECISD ensures all eligibility requirements are met according to the Handbook.
Oct-Nov 2024	Meeting with committee (R&E, HR, and TTU) to review data qualitatively to determine appropriate identification of top 15%.	

Nov-Dec 2024	ECISD announces designation of the top performing principals.	
Jan 2025	ECISD distributes allotment to principals	

3. Compensation:

- a. The total cost for services provided by CIRCLE under this Agreement is \$10,000.
- b. Payment shall be made by ECISD to CIRCLE by November 30, 2024. ECISD shall make the payments from current revenues available to it.

4. Termination:

- a. This Agreement may be terminated by either party at any time upon the giving the other party ten (10) days’ prior written notice of its intention to terminate. In the event of termination, ECISD’s sole obligation hereunder is to pay CIRCLE for services received prior to the date of termination, and CIRCLE’s sole obligation hereunder is to provide services agreed upon prior to the date of termination.

5. Governing Law:

- a. This Agreement and all of the rights and obligations of the parties hereto and any claims arising from this Agreement will be construed, interpreted, and governed by the laws of the State of Texas.

6. FERPA:

- a. If given access to the personally identifiable information about any student during performance of any services, the parties agree to abide by the limitations on re-disclosure of personally identifiable information from student records as set forth in The Family Educational Rights and Privacy Act (“FERPA”) 34 CFR, §99.3 and in accordance with the terms of DSA executed between the Parties.

7. Force Majeure:

- a. “Event of Force Majeure” means an event beyond the control of the parties which prevents or makes a party’s compliance with any of its obligations under the Agreement illegal or impracticable, including but not limited to: act of God (including, without limitation, fire, explosion, earthquake, tornado, drought, and flood); war, act or threats of terrorism, hostilities (whether or not war be declared), invasion, act of enemies, mobilization, requisition, or embargo; rebellion, insurrection, military or usurped power, or civil war; contamination or destruction from any nuclear, chemical, or biological event; riot, commotion, strikes, go slows, lock outs, or disorder; epidemic, pandemic, viral outbreak, or health crisis; or directive of governmental authority. No party will be considered in breach of the Agreement to the extent that performance of their respective obligations is prevented

or made illegal or impracticable by an Event of Force Majeure that arises during the term (or after execution of the Agreement but prior to the beginning of the term). A party asserting an Event of Force Majeure hereunder (“Affected Party”) will give reasonable notice to the other party of an Event of Force Majeure upon it being foreseen by, or becoming known to, Affected Party. In the event of an Event of Force Majeure, Affected Party will endeavor to continue to perform its obligations under the Agreement only so far as reasonably practicable.

8. Entire Agreement; Modifications:

- a. This Agreement will constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. This Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended, or altered except in writing signed by the parties.

9. Applicable Laws & Regulations.

- a. The parties agree to comply with all federal, state, or local laws or regulations applicable to their performance under the Agreement.

10. Notices:

- a. All notices shall be in writing and sent by registered or certified mail addressed as follows:

To ECISD:

Robin Fawcett

Human Resources Director

802 N. Sam Houston

Odessa, TX 76761

Robin.Fawcett@ectorcountyisd.org

To CIRCLE:

J. Jacob Kirksey

College of Education

3002 18th Street

Lubbock, TX 79409

jacob.kirksey@ttu.edu

With a copy to: Texas Tech University

Procurement Services

Attn. Contract Management

Box 41094

Lubbock, TX 79409

Contracting@ttu.edu

11. Confidentiality and Intellectual Property:

a. Both parties agree to maintain confidentiality regarding any sensitive information exchanged during the Agreement period, subject to applicable laws and legal processes.

b. Any intellectual property developed during this Agreement will be subject to a separate agreement entered into between the parties in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CIRCLE Representative: _____

Date: _____

ECISD Representative: _____

Date: _____

Appendix B: References from Previous Contracts

Dr. Annette Macias
Executive Director of Accountability and Compliance
Midland Independent School District
annette.macias@midlandisd.net

Dr. Lane Sobehrad
Coordinator of Research and Innovation
Lubbock Independent School District
Lane.Sobehrad@lubbockisd.org

Dr. Chelsea Guillermo-Wann
Director of Research and Evaluation
Santa Barbara Unified School District
cwann@sbunified.org

Appendix C: Vita and Job Description of Project Staff

Dr. J. Jacob Kirksey will exclusively supervise and direct all aspects of the validation process for the Principal Incentive Allotment program at Ector County ISD. As an expert in educational research and data analysis, Dr. Kirksey brings a unique blend of practical experience and academic insight to this project. His expertise lies in developing and implementing comprehensive evaluation strategies, particularly in the context of educational leadership and incentive programs. Dr. Kirksey's approach combines rigorous data collection methods with advanced statistical analysis, ensuring a thorough and nuanced assessment of the program's effectiveness. His extensive experience in handling complex educational datasets makes him exceptionally qualified to address the unique challenges of this project. In addition to leading the overall project, Dr. Kirksey will provide ongoing consulting support, tailoring his approach to meet the specific needs and objectives of Ector County ISD, thereby ensuring the delivery of a robust and meaningful validation of the Principal Incentive Allotment program.

J. Jacob Kirksey

TTU College of Education
3002 18th Street; MS 1071
Lubbock, TX 79409

jacob.kirksey@ttu.edu
Twitter: @jjacobkirksey
www.jacobkirksey.com

Updated December 2023

Current Position

Texas Tech University (TTU)

2020 – present Assistant Professor of Educational Leadership Policy
Department of Educational Psychology, Leadership, and Counseling
College of Education

Research Affiliations

Texas Tech University (TTU)

2021 – present Associate Director
Center for Innovative Research in Change, Leadership, and Education
College of Education

2020 – present Faculty Affiliate
STEM Center for Outreach, Research, and Education (STEM-CORE)
Office of the Provost

Education

University of California, Santa Barbara (UCSB)

2020 Ph.D., Education, *Gevirtz Graduate School of Education (GGSE)*
Dissertation: The Ripple Effects of Immigration Enforcement in K-12

2016 M.A., Education, *Gevirtz Graduate School of Education (GGSE)*

Colorado College

2015 B.A., Economics and Education

Research Grants and Contracts

External Grants (\$824,838 Total)

- **Kirksey, J. J.** (Principal Investigator), Gottlieb, J. J. (Co-Principal Investigator), Higgins, R. (Co-Principal Investigator), Johnson, L. (Co-Principal Investigator), & Spott, J. L. (Co-Principal Investigator), "Investigating Pre-College Predictors and Post-Secondary Effects of Course-Based Undergraduate Research Experiences in Texas," Sponsored by National Science Foundation, Federal, \$499,999. (June 2022 – May 2025).

- **Kirksey, J. J.** (Principal Investigator), Wiseman, A. (Co-Principal Investigator), Gottlieb, J. J. (Co-Principal Investigator), "Bold Action for a Prosperous Future: Evaluation of Texas House Bill 5 and Academic and Career Trajectories of Texas Public High School Graduates," Sponsored by Philanthropy Advocates, Foundation, \$99,579. (January 2022 - September 2022).
- Gottlieb, J. J. (Principal Investigator), McNaughtan, J. (Co-Principal Investigator), & **Kirksey, J. J.** (Co-Principal Investigator), "Community College Finance Research Project," Subaward from Texas A&M University (Principal Investigator: Lori Taylor), \$42,260.00. Prime award sponsored by The Texas Higher Education Coordinating Board, State, \$480,000. (May 2022 - October 2022).
- **Kirksey, J. J.** (Principal Investigator), "Literacy, Numeracy, and Problem Solving: Which Skills are Facilitating STEM Outcomes for Adults with Disabilities?" Sponsored by National Science Foundation, Federal, \$138,000. (July 2017 – June 2020).
- **Kirksey, J. J.** (Principal Investigator), "From Court to Classroom: The Extent of Unexpected Consequences of Deportation Proceedings on Science, Math, and Reading Achievement for Elementary Students from 1998 to 2016" Sponsored by American Educational Research Association, Research Organization, \$25,000. (June 2019 – May 2020; Declined award).
- **Kirksey, J. J.** (Principal Investigator), "Math Instruction in Inclusive Classrooms: Exploring Changing Practices with a Changing Policy Paradigm," Sponsored by National Science Foundation, Federal, \$5,000. (January 2019 – June 2019).
- Gottfried, M. A. (Principal Investigator), Hutt, E. L. (Co-Principal Investigator), & **Kirksey, J. J.** (Co-Principal Investigator), "Do the University of California's General Education Teacher Candidates Feel Prepared to Teach Students with Learning Disabilities?" Sponsored by California Teacher Education Research and Improvement Network, College/University, \$15,000. (June 2018 – May 2019).

Internal Grants (\$52,082 Total)

- **Kirksey, J. J.** (Principal Investigator), "Educational Policy Evaluation and Analysis Research Lab (EPEARL)," Awarded by Texas Tech University's Center for Transformative Undergraduate Experiences, College or University, \$11,000. (January 2023 - December 2023).
- **Kirksey, J. J.** (Principal Investigator), & Lansford, T. (Co-Principal Investigator), "Opportunities and Potential in Hi-Tech for Students with Learning Disabilities: INclusion in Post- Secondary Education and the Hi-Tech Workforce (OPT-IN)" Awarded by *TTU College of Education Research Committee*, College or University, \$8,500. (July 2022 – June 2023).
- **Kirksey, J. J.** (Principal Investigator), "Participation in Course-Based Undergraduate Research," Awarded by *Texas Tech University's Office of Research & Innovation*, College or University, \$6,000. (January 2022 – May 2022).
- **Kirksey, J. J.** (Principal Investigator), "Exploring the Changes and Impacts of Demographic Representation of the Texas STEM Teaching Workforce," Awarded by Texas Tech University, Office of Research & Innovation, College or University, \$4,000. (January 2021 - May 2021).
- **Kirksey, J. J.** (Principal Investigator), "Educational Policy Evaluation and Analysis Research Lab (EPEARL)," Awarded by Texas Tech University's Center for Transformative Undergraduate Experiences, College or University, \$6,000. (November 2020 - May 2021).
- **Kirksey, J. J.** (Principal Investigator), "Educational Policy Evaluation and Analysis Research Lab (EPEARL)," Awarded by Texas Tech University's Center for Transformative Undergraduate Experiences, College or University, \$3,000. (August 2020 - May 2021).

- **Kirksey, J. J.** (Principal Investigator), "Educational Policy Evaluation and Analysis Research Lab (EPEARL)," Awarded by Texas Tech University's Center for Transformative Undergraduate Experiences, College or University, \$11,832. (June 2021 - August 2021).
- **Kirksey, J. J.** (Principal Investigator), "New Teachers' Preparation and Responses to Spillover Effects of Heightened Immigration Enforcement," Awarded by University of California-Santa Barbara's Chicano/a Studies Institute, College or University, \$1,750. (June 2019 - May 2020).

Contracts (\$632,960 Total)

- Gottlieb, J. J. (Principal Investigator), Wiseman, A. W. (Co-Principal Investigator), & **Kirksey, J. J.** (Co-Principal Investigator), "Evaluation of Teacher Incentive Allotment Assessment Items," Contracted by Lubbock Independent School District, \$84,426. (June 2023 – August 2023).
- Gottlieb, J. J. (Principal Investigator), Wiseman, A. W. (Co-Principal Investigator), & **Kirksey, J. J.** (Co-Principal Investigator), "Evaluation of Teacher Incentive Allotment Assessment Items," Contracted by Lubbock Independent School District, \$62,474. (June 2022 – August 2022).
- Wiseman, A. W. (Principal Investigator), Gottlieb, J. J. (Co-Principal Investigator), & **Kirksey, J. J.** (Co-Principal Investigator), "REAL Partnership with Ector County ISD," Contracted by Ector County Independent School District, \$270,000. (August 2021 – July 2024).
- Wiseman, A. W. (Principal Investigator), Gottlieb, J. J. (Co-Principal Investigator), & **Kirksey, J. J.** (Co-Principal Investigator), "Program Evaluation of Opportunity Culture," Contracted by Midland Independent School District, \$90,000. (May 2022 – September 2023).
- Wiseman, A. W. (Principal Investigator), Gottlieb, J. J. (Co-Principal Investigator), & **Kirksey, J. J.** (Co-Principal Investigator), "REAL Partnership with Ector County ISD," Contracted by Ector County Independent School District, \$90,000. (August 2020 – July 2022).
- Gottlieb, J. J. (Principal Investigator), Wiseman, A. W. (Co-Principal Investigator), & **Kirksey, J. J.** (Co-Principal Investigator), "Evaluation of Teacher Incentive Allotment Assessment Items," Contracted by Lubbock Independent School District, \$36,060. (June 2021 – August 2021).

Publications

IF Indicates 2-Year Impact Factor of journal at time of publication

* Indicates graduate student mentee at time of initial submission

^ Indicates undergraduate student mentee at time of initial submission

Google Scholar Citations: 641

Google Scholar h-index: 13

Google Scholar i10-index: 16

Refereed Journal Articles

34. **Kirksey, J. J.**, & Sattin-Bajaj, C. (2023). ICE raids the pillar of a community: Effects of a large worksite enforcement operation on student achievement, absenteeism, and mobility in north Texas. *American Behavioral Scientist*. [IF: 3.200] <Online first: <https://doi.org/10.1177/00027642231215992>>
33. *Lansford, T., & **Kirksey, J. J.** (In Press). A matter of course: Student attendance under new graduation requirements of the Texas Foundation High School Program. *The High School Journal*. [IF: 0.700]

32. **Kirksey, J. J.**, *Mansell, K. E., & *Lansford, T. M. (2023). Literacy, numeracy, and problem-solving skills of adults with disabilities in STEM fields. *Policy Futures in Education*. [IF: 1.500] <Online first: <https://doi.org/10.1177/14782103231177107>>
31. Rodriguez, S., **Kirksey, J. J.**, Roth, B., & Lopez-Escobar, L. (2023). Immigration enforcement effects and the role of school social workers supporting immigrant students. *Journal of Education for Students Placed at Risk (JESPAR)*. [IF: 2.095] <Online first: <https://doi.org/10.1080/10824669.2022.2154673>>
30. **Kirksey, J. J.**, & Elefante, J. (2023). Familiar faces in high school: How having the same peers from year-to-year links to student absenteeism. *Journal of Education for Students Placed at Risk (JESPAR)*. [IF: 2.095] <Online first: <https://doi.org/10.1080/10824669.2022.2102982>>
29. **Kirksey, J. J.** (2023). From court to classroom: Deportation proceedings and reading and math achievement for elementary students from 1998 to 2016. *American Journal of Education*, 129(3), 325-354. [IF: 2.383]
28. *Freeman, J. A., & **Kirksey, J. J.** (2023). Linking IEP status to parental involvement for high school students of first-generation and native-born families. *Exceptional Children*, 89(2), 197-215. [IF: 5.042]
27. **Kirksey, J. J.** (2022). Preparedness and experiences of novice teachers in the sociopolitical context of heightened immigration enforcement: Evidence from a survey of California teachers. *Journal of Teacher Education*, 73(1), 37-51. [IF: 5.357]
26. **Kirksey, J. J.**, & Lloydhauser, M. (2022). Dual certification in special and elementary education and associated benefits for students with disabilities and their teachers. *AERA Open*, 8(1), 1-11. [IF: 3.427]
25. **Kirksey, J. J.**, Gottfried, M. A., & *Freeman, J. A. (2022). Does parental involvement change after schools assign a student an IEP? *Peabody Journal of Education*, 97(1), 18-31. [IF: 1.450]
24. Gottfried, M. A., & **Kirksey, J. J.** (2022). School breakfast and young children's absenteeism: Does meal location matter? *Children and Youth Services Review*, 143, 1-10. [IF: 2.393]
23. Gottfried, M.A., & **Kirksey, J. J.** (2022). Exploring the effects of full-day kindergarten on school absenteeism for children with disabilities: Evidence from state policy mandates in the U.S. *Exceptional Children*, 88(3), 263-282. [IF: 5.042]
22. Gottfried, M. A., **Kirksey, J. J.**, & Fletcher, T. (2022). Do high school students with a same-race teacher attend class more often? *Educational Evaluation and Policy Analysis*, 44(1), 149-169. [IF: 3.347]
21. **Kirksey, J. J.**, & Sattin-Bajaj, C. (2021). Immigration arrests and educational impacts: Linking ICE arrests to declines in achievement, attendance, and school climate and safety in California. *AERA Open*, 7(1), 1-17. [IF: 2.299]
20. **Kirksey, J. J.**, & Gottfried, M. A. (2021). Is there a Catholic school effect on kindergarteners' absenteeism? *Journal for Research on Educational Effectiveness*, 14(3), 570-597. [IF: 2.500]

19. **Kirksey, J. J., & Gottfried, M. A.** (2021). The effect of serving ‘Breakfast After-the-Bell’ meals on school absenteeism: Comparing results from regression discontinuity designs. *Educational Evaluation and Policy Analysis*, 43(2), 305-328. [IF: 3.347]
18. Gottfried, M. A., & **Kirksey, J. J.** (2021). Going to sleep and going to school: Linking bedtime to student absenteeism. *Journal of Sleep Research*, 30(1), 1-15. [IF: 3.981]
17. Gottfried, M. A., & **Kirksey, J. J.** (2021). Math instructional practices in general education classrooms with and without students with high-incidence disabilities. *Educational Policy*, 35(7), 1258-1287. [IF: 2.893]
16. Gottfried, M. A., Ozuna, C. S., & **Kirksey, J. J.** (2021). Exploring school bus ridership and absenteeism in rural communities. *Early Childhood Research Quarterly*, 56, 236-247. [IF: 3.719]
15. **Kirksey, J. J.**, Sattin-Bajaj, C., Gottfried, M. A., ^Freeman, J. A., & Ozuna, C. S. (2020). *Deportations near the schoolyard: Examining immigration enforcement and racial/ethnic gaps in educational outcomes. AERA Open*, 6(1), 1-18. [IF: 1.892]
14. **Kirksey, J. J.** (2020). Reflections on the registered report process for “Academic harms of missing high school and the accuracy of current policy thresholds.” *AERA Open*, 6(2), 1. [IF: 1.892]
13. Gottfried, M. A., **Kirksey, J. J.**, & Ozuna, C. S. (2020). Exploring the links between student and classmate chronic absenteeism. *Teachers College Record*, 122(12). [IF: 1.519]
12. Gottfried, M. A., **Kirksey, J. J.**, & Hutt, E. L. (2020). Can teacher education programs help prepare new kindergarten and first grade teachers to address student absenteeism? *Children and Youth Services Review*, 119, 1-11. [IF: 2.393]
11. Gottfried, M. A., **Kirksey, J. J.**, & Hutt, E. L. (2020). How can pre-service teaching programs help new teachers feel prepared to address absenteeism? *Teachers College Record*, 122(5), 1-28. [IF: 1.519]
10. Roberts, S., **Kirksey, J. J.**, & Gottfried, M. A. (2020). Practices more likely to occur in kindergarten mathematics teachers’ instruction when English learners are present. *Learning and Instruction*, 67, 1-10. [IF: 5.146]
9. Gottfried, M. A., Le, V. N., & **Kirksey, J. J.** (2020). Disparities across time: Exploring absenteeism patterns between cohorts of students with disabilities. *Teachers College Record*, 122(11). [IF: 1.519]
8. **Kirksey, J. J.** (2019). Academic harms of missing high school and the accuracy of current policy thresholds: Analysis of preregistered administrative data from a California school district. *AERA Open*, 5(3), 1-13. [IF: N/A]
As listed in awards: Winner of the inaugural “Best Graduate Student Paper Award” by the AERA SIG: School Effectiveness and School Improvement
7. Gottfried, M. A., Hutt, E. L., & **Kirksey, J. J.** (2019). New teachers’ perceptions on being prepared to teach students with learning disabilities: Insights from California. *Journal of Learning Disabilities*, 52(5), 383-398. [IF: 2.578]

6. Gottfried, M. A., Sublett, C., & **Kirksey, J. J.** (2019). Students with disabilities attending full-day versus part-day kindergarten: Short- and long-term effects on achievement. *Early Childhood Research Quarterly*, 49, 175-187. [IF: 2.316]
5. Gottfried, M. A., **Kirksey, J. J.**, & Wright, A. (2019). Same-race student–teacher: Comparing outcomes for kindergartners with and without disabilities. *Remedial and Special Education*, 40(4), 225-235. [IF: 2.817]
4. Gottfried, M. A., & **Kirksey, J. J.** (2019). General education teachers’ math instructional practices in kindergarten classrooms with and without students with emotional and behavioral disabilities. *Teaching and Teacher Education*, 77, 309-320. [IF: 2.686]
3. **Kirksey, J. J.**, & Gottfried, M. A. (2018). Familiar faces: Can having similar classmates from last year link to better school attendance this year? *The Elementary School Journal*, 119(2), 223-243. [IF: 1.393]
2. Gottfried, M. A., & **Kirksey, J. J.** (2017). “When” students miss school: The role of timing of absenteeism on students’ test performance. *Educational Researcher*, 46(3), 119-130. [IF: 4.000]
1. Gottfried, M. A., Egalite, A., & **Kirksey, J. J.** (2016). Does the presence of a classmate with emotional/behavioral disabilities link to other students’ absences in kindergarten? *Early Childhood Research Quarterly*, 36, 506-520. [IF: 2.436]

Refereed Book Chapters

- B3. **Kirksey, J. J.**, & *Elefante, J. (2023). A crisis in the opportunity to learn: Addressing the causes and consequences of missing school. In Matson, J. L. (Ed.), *Handbook of Clinical Child Psychology: Integrating Theory and Research into Practice* (pp. 217-231). Springer Cham.
- B2. Sattin-Bajaj, C. S., & **Kirksey, J. J.** (2019). Is school a sanctuary: Examining the relationship between immigration enforcement and absenteeism rates for immigrant-origin children. In Gottfried, M. A. & Hutt, E. L. (Eds.), *Absent From School: Understanding and Addressing Absenteeism*. Cambridge, MA: Harvard Education Press.
- B1. Oseguera, L., Abad, M., **Kirksey, J. J.**, Hinga, B., Conchas, G. Q., & Gottfried, M. A. (2017). Conceptualizing the intricacies that are concomitant in educational policy making that determine success, backfire, and everything in between. In Conchas, G. Q., Gottfried, M. A., Hinga, B., & Oseguera, L. (Eds.), *Educational Policy Goes to School*. New York, NY: Routledge.

Research and Policy Reports

- R6. **Kirksey, J. J.**, Wiseman, A., Gottlieb, J. J., Lansford, T., Mansell, K. E., & Crevar, A. R. (2023). *Bold action for a prosperous future: Evaluation of the Foundation High School Program and Academic and Career Trajectories of Texas High School Graduates*. Texas Tech University. Center for Innovative Research in Change, Leadership, and Education. <https://ttu-ir.tdl.org/handle/2346/90733>
- R5. Sattin-Bajaj, C., & **Kirksey, J. J.** (2022). *Effects of immigration enforcement on students in California*. Policy Analysis for California Education. <https://edpolicyinca.org/publications/effects-immigration-enforcement-students-california>.

- R4. Gottfried, M. A., **Kirksey, J. J.**, & Hutt, E. L. (2021). *Do novice kindergarten and first grade teachers feel prepared to address student absenteeism? Evidence from a statewide survey*. Urban Institute. <https://www.urban.org/research/publication/do-novice-kindergarten-and-first-grade-teachers-feel-prepared-address-student-absenteeism>.
- R3. Gottfried, M. A., & **Kirksey J. J.** (2020). *Research brief: Evaluating the impact of breakfast after the bell on chronic absenteeism*. No Kid Hungry. Center for Best Practices. <http://bestpractices.nokidhungry.org/research/school-breakfast>.
- R2. Gottfried, M. A., & **Kirksey, J. J.** (2020). Preparing teachers to educate students with learning disabilities. *Policy Analysis for California Education*. <https://edpolicyinca.org/publications/preparing-teachers-educate-students-learning-disabilities>.
- R1. Gottfried, M. A., & **Kirksey, J. J.** (2018). *Self-discipline and catholic education: Evidence from two national cohorts*. Thomas B. Fordham Institute. <https://fordhaminstitute.org/national/research/self-discipline-and-catholic-schools-evidence-two-national-cohorts>.

Policy Briefs

- P13. **Kirksey, J. J.**, & Crevar, A. R., (2023, Fall). *Exiting high school into the new economy: How Community College Baccalaureate Programs support high-demand degree attainment for Texas public school students* [Brief no. 4]. Texas Tech University. Center for Innovative Research in Change, Leadership, and Education.
- P12. **Kirksey, J. J.**, & Crevar, A. R., (2023, Fall). *Exiting high school into the new economy: How Community College Baccalaureate Programs support high-demand degree attainment for Texas public school students* [Brief no. 3]. Texas Tech University. Center for Innovative Research in Change, Leadership, and Education.
- P11. Johnson, L., Crevar, A. R., & **Kirksey, J. J.** (2023, Fall). *The promise of P-TECH: Examining impacts of a CTE-focused dual credit school model* [Brief no. 2]. Texas Tech University. Center for Innovative Research in Change, Leadership, and Education.
- P10. Mansell, K. E., & **Kirksey, J. J.** (2023, Fall). *STEM teacher career paths: Where do they come from and where do they go?* [Brief no. 1]. Texas Tech University. Center for Innovative Research in Change, Leadership, and Education.
- P9. Mansell, K. E., & **Kirksey, J. J.** (2023, April). *Shifts in advanced science course-taking and postsecondary and career pathways following Texas House Bill 5* [Brief no. 5]. Texas Tech University. Center for Innovative Research in Change, Leadership, and Education.
- P8. Mansell, K. E., & **Kirksey, J. J.** (2023, April). *Access versus attainment: A closer look at the STEM endorsement in Texas public high schools* [Brief no. 4]. Texas Tech University. Center for Innovative Research in Change, Leadership, and Education.
- P7. Crevar, A. R., & **Kirksey, J. J.** (2023, April). *Calculating CTE math dividends for college and careers* [Brief no. 3]. Texas Tech University. Center for Innovative Research in Change, Leadership, and Education.

- P6. Wiseman, A. W., Crevar, A. R., & **Kirksey, J. J.** (2023, April). *The promises and pitfalls of House Bill 5: What we've learned from 10 years of technical and academic Endorsements in the Foundation High School Program* [Brief no. 2]. Texas Tech University. Center for Innovative Research in Change, Leadership, and Education.
- P5. Crevar, A. R., & **Kirksey, J. J.** (2023, April). *Postsecondary undermatching in the Texas Foundation High School Program* [Brief no. 1]. Texas Tech University. Center for Innovative Research in Change, Leadership, and Education. <https://hdl.handle.net/2346/92508>
- P4. Gottlieb, J. J., & **Kirksey, J. J.** (2022, November). *Innovations in university-based teacher preparation: Comparing the 'Grow Your Own' alternative to the traditional program at Texas Tech.* [Brief no. 2]. Texas Tech University. Center for Innovative Research in Change, Leadership, and Education. <https://hdl.handle.net/2346/90346>
- P3. Mansell, K. E., Gottlieb, J. J., & **Kirksey, J. J.** (2022, November). *Endorsement alignment between secondary and postsecondary institutions.* [Brief no. 1]. Texas Tech University. Center for Innovative Research in Change, Leadership, and Education. <https://hdl.handle.net/2346/90340>
- P2. Gottfried, M. A., & **Kirksey, J. J.** (2021, Spring). *Preparation to educate students with learning disabilities: Implications for instructional practices in mathematics* [Vol. 3, no. 1]. California Teacher Education Research and Improvement Network. <https://cterin.ucop.edu/resources/cterin-briefs/cterin-research-briefs.html>.
- P1. **Kirksey, J. J.** (2019, June). *Immigration enforcement and absenteeism in a California school district.* (Vol. 3, no. 9). UC Center Sacramento. <https://uccs.ucdavis.edu/public-policy/uccs-policy-briefs>.

Commentary and Op-Eds

- C4. Heumiller, K. (Host). (2021). Study finds “Breakfast after the bell” can improve attendance [Audio podcast episode]. In Research Minutes. Consortium for Policy Research in Education Knowledge Hub. Retrieved from <https://www.researchminutes.org/>.
- C3. **Kirksey, J. J.** (2021). Breakfast after the bell programs reduce school absenteeism. *The Conversation US*. Retrieved from <https://theconversation.com/>.
Republished by Yahoo News, Houston Chronicle, among others
- C2. Sattin-Bajaj, C., & **Kirksey, J. J.** (2019). Understanding and addressing the consequences of immigration policies for students and educators. *Education Week*. <http://blogs.edweek.org/>.
- C1. **Kirksey, J. J.** (2018). Catholic schools’ competitive advantage: Self-discipline in the school choice era. *Thomas B. Fordham Institute*. <https://fordhaminstitute.org/>.

Working Papers

The following manuscripts are in review in either *American Journal of Education*, *American Educational Research Journal*, *Children and Youth Services Review*, *Educational Evaluation and Policy Analysis*, *Exceptional Children*, *Journal of Special Education*, *Journal for Public Policy Analysis* and

Management, Educational Researcher, AERA Open, PLOS One, Journal of Students Placed at Risk, or Economics of Education Review:

Kirksey, J. J. (Revised and Resubmitted). Weeks after the raid: The immediate and sustained changes in student attendance rates following immigration arrests. *Educational Evaluation and Policy Analysis*. <https://edarxiv.org/v8kwp/>

Kirksey, J. J., & Sattin-Bajaj, C. (Invited Submission) Disrupted dreams: Examining the impact of a large worksite enforcement operation on educational and workforce pathways of students. *RSF: The Russell Sage Foundation Journal of the Social Sciences*.

Kirksey, J. J., Gottfried, M. A., & Ansari, A. (Under Initial Review). Not being there: Do absent classmates drive up other students' absenteeism?

Kirksey, J. J., *Lansford, T., & *Elefante, J. (Under Initial Review). Six periods a day, five days a week: Classes students miss most frequently and cumulative impacts on high school graduation. Texas Tech University. <https://hdl.handle.net/2346/90739>

Kirksey, J. J., *Freeman, J. A., & *Mansell, K. E. (Under Initial Review). Comparing types of special education services in charter versus traditional public schools in Texas.

Crevar, A. R., & **Kirksey, J. J.** (Under Initial Review). Endorsing college readiness: Postsecondary undermatching in Texas under the Foundation High School Program.

Gottlieb, J., *Lansford, T., *Mansell, K., **Kirksey, J. J.** (Under Initial Review). Comparing STEM and non-STEM teacher pathways to teaching and factors related to teacher retention.

Refereed Conference Presentations

Presentations in 2024

- **Kirksey, J. J.,** Roland, A., Varney, N., Robison, E., Reyna, M., Nagawekar, S., Mansell, K. E., Crevar, A. R., & Lansford, T. (2024). Teacher turnover and student achievement under the Texas Teacher Incentive Allotment: Insights from an urban school district. *Paper presentation at the annual conference of the IAFOR International Conference on Education, Hawaii, HI.*

Presentations in 2023

- *Lansford, T., & **Kirksey, J. J.** (2023). A matter of course: Student attendance under new graduation requirements of the Texas Foundation High School Program. *Paper presentation at the annual conference of the Association for Public Policy Analysis and Management, Atlanta, GA.*
- **Kirksey, J. J.,** Freeman, J. A., Gottlieb, J. J., Higgins, R., Spott, J. L., Johnson, L., & Crevar, A. R. (2023). Tracking undergraduate research in Texas: What student and institutional characteristics are associated with participation in course-based undergraduate research? *Paper presentation at the annual conference of the Association for Public Policy Analysis and Management, Atlanta, GA.*
- **Kirksey, J. J.,** Freeman, J. A., Gottlieb, J. J., Higgins, R., Spott, J. L., Johnson, L., & Lansford, T. (2023). Tracking undergraduate research in Texas: What student and institutional characteristics are associated with participation in course-based undergraduate research? Paper presentation at the annual conference of the European Educational Research Association, Glasgow, U.K.

- **Kirksey, J. J.**, Gottlieb, J. J., Higgins, R., Spott, J. L., Johnson, L., Crevar, A. R., & Freeman, J. A. (2023). Investigating postsecondary effects of course-based undergraduate research in Texas. *Paper presentation at the Leuven Economics of Education Research annual conference*, Leuven, BE.
- **Kirksey, J. J.**, Freeman, J. A., Gottlieb, J. J., Higgins, R., Spott, J. L., Johnson, L., & Crevar, A. R. (2023). Tracking undergraduate research in Texas: What student and institutional characteristics are associated with participation in course-based undergraduate research? *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.
- **Kirksey, J. J.**, Freeman, J. A., Gottlieb, J. J., Higgins, R., Spott, J. L., Johnson, L., & Crevar, A. R. (2023). Tracking undergraduate research in Texas: What student and institutional characteristics are associated with participation in course-based undergraduate research? *Poster presentation at the annual conference of the American Educational Research Association*, Chicago, IL.
- Mansell, K. E., **Kirksey, J. J.**, & Crevar, A. R. (2023). An issue of access? A closer look at advanced placement math and science course offers in Texas after House Bill 5. *Poster presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.
- Gottfried, M. A., **Kirksey, J. J.**, Woods, C., & Crevar, A. R. (2023). Catholic education and self-discipline: Evidence from two national cohorts. *Poster presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.
- **Kirksey, J. J.**, & Gottlieb, J. J. (2023). Teacher preparation goes virtual in the wild west: The impact of fully-online teacher preparation in Texas. *Poster presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.
- Crevar, A. R., **Kirksey, J. J.**, & Mansell, K. E. (2023). Endorsing college readiness: Endorsement designations, CTE concentrations, and postsecondary undermatching in Texas following Texas House Bill 5. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.
- Mansell, K. E., **Kirksey, J. J.**, & Crevar, A. R. (2023). CTE math and science: Access to postsecondary and career success through Texas House Bill 5's Foundation High School Program. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.

Presentations in 2022

- **Kirksey, J. J.**, *Lansford, T., & *Elefante, J. (2022). Five days a week, six periods a day: Classes students miss most frequently and associated academic declines. *Paper presentation at the annual conference of the Society for Research on Educational Effectiveness*, Washington, DC.
- **Kirksey, J. J.**, *Lansford, T., & *Crevar, A. R. (2022). CTE teacher preparation and turnover in rural school districts: Differences in labor market trends following the passage of Texas House Bill 5. *Paper presentation at the annual conference of the Association for Public Policy Analysis and Management*, Washington, DC.
- **Kirksey, J. J.**, & Sattin-Bajaj, C. (2022). Aftermath of large-scale immigration enforcement arrests on students in nearby schools: Evidence from workplace raids in north Texas. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.
- **Kirksey, J. J.**, *Lansford, T., & *Elefante, J. (2022). Five days a week, six periods a day: Classes students miss most frequently and associated academic declines. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.

- **Kirksey, J. J.**, *Freeman, J. A., & *Mansell, K. E. (2022). Comparing types of special education services in charter versus traditional public schools in Texas. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.
- **Kirksey, J. J.**, ^Horvath, A., ^Hand, E., ^Jones, J., & *Johnson, L. (2022). Shared identities: Short- and long-run benefits of demographic representation in middle school and high school math courses. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.
- *Johnson, L., *Crevar, A. R., & **Kirksey, J. J.** (2022). The promise of P-TECH: Examining impacts of CTE-focused dual credit turnaround model in Texas schools. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.
- Gottlieb, J. J., **Kirksey, J. J.**, & *Rodriguez, A. (2022). STEM teacher pathways: Where do they come from, and where do they go? *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.
- Gottlieb, J. J., **Kirksey, J. J.**, Wiseman, A. W., *Lansford, T., & *Robison, E. (2022). Best of both worlds: A mixed methods evaluation of Public Impact's Opportunity Culture in a Texas school district. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.
- *Stokowski, D. M., & **Kirksey, J. J.** (2022). An investigation into the effects of faculty accreditation policy on full-time faculty turnover at America's community colleges. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Denver, CO.
- **Kirksey, J. J.**, ^Horvath, A., ^Hand, E., ^Jones, J., & *Johnson, L. (2022). Shared identities: Investigating impacts of demographic representation for students of color in middle school and high school math courses. *Paper presentation at the annual conference of the American Educational Research Association*, San Diego, CA.
- **Kirksey, J. J.** & *Elefante, J. (2022). **Familiar faces in high school: How having the same peers from year-to-year links to student absenteeism.** *Paper presentation at the annual conference of the American Educational Research Association*, San Diego, CA.
- **Kirksey, J. J.**, Gottfried, M. A., & *Freeman, J. A. (2022). Does parental involvement change after schools assign students an IEP? *Paper presentation at the annual conference of the American Educational Research Association*, San Diego, CA.
- **Kirksey, J. J.** (2022). A teacher with learning differences like mine: Examining academic outcomes for students and teachers with learning disabilities in general education. *Paper presentation at the annual conference of the Association for Public Policy Analysis and Management*, Austin, TX.
- **Kirksey, J. J.**, & Sattin-Bajaj, C. (2022). Aftermath of large-scale immigration enforcement arrests on students in nearby schools: Evidence from workplace raids in north Texas. *Paper presentation at the annual conference of the Association for Public Policy Analysis and Management*, Austin, TX.

Presentations in 2021

- **Kirksey, J. J.**, Gottlieb, J. J., & *Johnson, L. (2021). **Demographic representation in gatekeeping courses: How race and gender matching in 9th grade math courses relates to later academic outcomes.** *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Virtual.

- **Kirksey, J. J., & *Elefante, J. (2021). Familiar faces in high school: How having the same peers from year-to-year links to student absenteeism. Paper presentation at the annual conference of the Association for Education Finance and Policy, Virtual.**
- *Freeman, J. A., & **Kirksey, J. J. (2021). Receipt of special education services and associated changes in parental involvement of immigrant and non-immigrant families of high school students. Paper Presentation at the annual conference of the Association for Education Finances and Policy, Virtual.**
- Gottfried, M. A., **Kirksey, J. J., & Fletcher, T. (2021). Do high school students with same-race teachers attend school more frequently? Paper presentation at the annual conference of the Association for Education Finance and Policy, Virtual.**
- **Kirksey, J. J. (2021). Preparation and experiences of new teachers in the sociopolitical context of heightened immigration enforcement. Paper presentation at the annual conference of the American Educational Research Association, Virtual.**
- **Kirksey, J. J., & Lloydhauser, M. (2021). Dual certification in special and elementary education and the academic achievement of students with disabilities. Paper presentation at the annual conference of the American Educational Research Association, Virtual.**
- Gottfried, M. A., **Kirksey, J. J., & Fletcher, T. (2021). Do high school students with same-race teachers attend school more frequently? Paper presentation at the annual conference of the American Educational Research Association, Virtual.**
- Gottfried, M. A., **Kirksey, J. J., & Hutt, E. L. (2021). Do new kindergarten and first grade teachers feel prepared to address student absenteeism? Evidence from statewide survey data. Paper presentation at the annual conference of the American Educational Research Association, Virtual.**
- Gottfried, M. A., **Kirksey, J. J., & Hutt, E. L. (2021). Elementary school teacher workforce development in light of the absenteeism crisis. Paper presentation at the biennial conference of the Society for Research in Child Development, Virtual.**

Presentations in 2020

- *Freeman, J. A., **Kirksey, J. J. (2020). The effects of undergraduate research participation for community college transfer students at a research university. Paper presentation at the annual European Conference on Educational Research of the European Educational Research Association, Scotland, UK. [cancelled]**
- Gottfried, M. A., **Kirksey, J. J. (2020). Educating the whole child: Comparing social-emotional and executive functioning skills between children in catholic and non-Catholic schools. Paper presentation at the annual European Conference on Educational Research of the European Educational Research Association, Scotland, UK. [cancelled]**
- Gottfried, M. A., **Kirksey, J. J. (2020). Exploring the effects of attending full-day kindergarten for children with disabilities: Evidence from policy shifts in the U.S. Paper presentation at the annual international conference on education of the Athens Institute for Education and Research, Virtual.**
- Gottfried, M. A., **Kirksey, J. J., & Hutt, E.L. (2020). Elementary school teacher workforce development in light of the absenteeism crisis. Paper presentation at the National Research Conference on Early Childhood, Virtual.**

- **Kirksey, J. J.**, Hinkle, S. C., *Freeman, J. A. (2020). More than an email: The importance of transfer student-faculty communication at a four-year university. *Paper presentation at the annual conference of the American Educational Research Association*, San Francisco, CA. [cancelled]
- Gottfried, M. A., Hutt, E. L., & **Kirksey, J. J.** (2020). From university to classroom: Exploring general education teachers' preparedness to instruct students with learning disabilities. *Paper presentation at the annual conference of the American Educational Research Association*, San Francisco, CA. [cancelled]
- Gottfried, M. A., Le, V., & **Kirksey, J. J.** (2020). Examining trends of absenteeism of kindergartners with disabilities in the face of changes in educational policies and practices. *Paper presentation at the annual conference of the American Educational Research Association*, San Francisco, CA. [cancelled]
- **Kirksey, J. J.** (2020). *Evidence of the effects of local immigration arrests and deportations on trends in absenteeism in surrounding schools. Paper presentation at the annual conference of the Association for Education Finance & Policy*, Virtual.
- **Kirksey, J. J.** & Sattin-Bajaj, C. (2020). Cutting to the core: How immigration enforcement activities affect student achievement, absenteeism and wellbeing in the California CORE districts. *Paper presentation at the annual conference of the Association for Education Finance & Policy*, Virtual.
- Gottfried, M. A., **Kirksey, J. J.**, & Hutt, E. L. (2020). *How can pre-service teaching programs help new teachers feel prepared to address absenteeism? Paper presentation at the annual conference of the Association for Education Finance & Policy*, Virtual.

Presentations in 2019

- **Kirksey, J. J.** & Sattin-Bajaj, C. (2019). Cutting to the core: How immigration enforcement activities affect student achievement, absenteeism and wellbeing in the California CORE districts. *Paper presentation at the annual conference of the Association for Public Policy Analysis and Management*, Denver, CO.
- **Kirksey, J. J.**, Hancock, K. J., & Spina, A. (2019). Instructional practices and academic outcomes in Australia's inclusive classrooms: Evidence from two nationally representative cohorts of primary school children. *Poster presentation at the annual conference of the Association for Public Policy Analysis and Management*, Denver, CO.
- **Kirksey, J. J.**, Hinkle, S. C., & *Freeman, J. A. (2019). More than an email: The importance of transfer student-faculty communication at a four-year university. *Paper presentation at the annual conference of the University Council for Educational Administration*, New Orleans, LA.
- Gottfried, M. A., **Kirksey, J. J.** (2019). Absenteeism in full-day vs. part-day kindergarten in the United States: Do the differences in absenteeism persist in later years of primary school for children with disabilities. *Paper presentation at the annual European Conference on Educational Research of the European Educational Research Association*, Hamburg, DE.
- Gottfried, M. A., **Kirksey, J. J.** (2019). Absenteeism in full-day vs. part-day kindergarten in the United States: Do the differences in absenteeism persist in later years of primary school for children with disabilities. *Paper presentation at the annual international conference on education of the Athens Institute for Education and Research*, Athens, GR.
- **Kirksey, J. J.**, Gottfried, M. A., & Hutt, E. L. (2019). Preparation of new teachers to support the inclusion of students with learning disabilities. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Kansas City, MO.

- **Kirksey, J. J.** (2019). Going beyond what is expected: ICE enforcement and chronic absenteeism of migrant and non-migrant students in a California school district. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Kansas City, MO.
- **Kirksey, J. J.**, Sattin-Bajaj, C., Gottfried, M. A., & Freeman, J. A. (2019). *Debunking the myth that schools are sanctuaries: Examining variation in the impact of immigration enforcement actions on educational outcomes*. Paper presentation at the annual conference of the Association for Education Finance and Policy, Kansas City, MO.
- Gottfried, M. A. & **Kirksey, J. J.** (2019). Absenteeism in full-day vs. part-day kindergarten in the United States: Do the differences in absenteeism persist in later years of primary school for children with disabilities? *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Kansas City, MO.
- Gottfried, M. A., Salem, C., & **Kirksey, J. J.** (2019). Is there equity in access to school transportation? Exploring busing in rural communities. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Kansas City, MO.
- **Kirksey, J. J.**, Sattin-Bajaj, C., Gottfried, M. A., & Freeman, J. A. (2019). *Schools as sanctuaries? Examining variation in the impact of immigration enforcement actions on educational outcomes for Hispanic youth*. Paper presentation at the annual conference of the American Educational Research Association, Toronto, Canada.
- **Kirksey, J. J.** & Gottfried, M. A. (2019). Examining the catholic school effect on absenteeism in kindergarten: Evidence from a nationally representative cohort. *Paper presentation at the annual conference of the American Educational Research Association*, Toronto, Canada.
- Gottfried, M. A., Salem, C., & **Kirksey, J. J.** (2019). Is there equity in access to school transportation? Exploring busing in rural communities. *Paper presentation at the annual conference of the American Educational Research Association*, Toronto, Canada.
- **Kirksey, J. J.** (2019). “Attending” charter schools: Examining a nationally representative cohort of elementary students. *Paper presentation at Paper presentation at the International Conference on School Choice and Reform*, Lisbon, Portugal.
- Gottfried, M. A. & **Kirksey, J. J.** (2019). Absenteeism in full-day vs. part-day kindergarten in the United States: Do the differences in absenteeism persist in later years of primary school for children with disabilities? *Paper presentation at the annual international conference on education of the Athens Institute for Education and Research*, Athens, Greece.

Presentations in 2018

- **Kirksey, J. J.** (2018). Going beyond what is expected: ICE enforcement and chronic absenteeism of migrant and non-migrant students in a California school district. *Paper presentation at the annual conference of the Association for Public Policy Analysis and Management*, Washington D.C.
- Gottfried, M. A., Hutt, E. L., & **Kirksey, J. J.** (2018). Are new teachers prepared to educate students with disabilities? Examining the overlay of changes to inclusion and teacher education policies. *Paper presentation at the international conference of the Association for Public Policy Analysis and Management*, Mexico City, Mexico.
- McGinnis, C. M. & **Kirksey, J. J.** (2018). Factors in choice: How parents select schools for their children in districts of choice. *Paper presentation at the annual conference of the American Psychological Association*, San Francisco, CA.

- Sattin-Bajaj, C., **Kirksey, J. J.**, & Gottfried, M. A. (2018). Schools as sanctuaries? Examining the relationship between immigration enforcement and attendance rates for immigrant-origin children. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Portland, OR.
- Gottfried, M. A., Hutt, E. L., & **Kirksey, J. J.** (2018). Do new teachers feel prepared to educate students with learning disabilities? Evidence from California. *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Portland, OR.
- **Kirksey, J. J.** & McGinnis, C. M. (2018). “Attending” charter schools: Examining a nationally representative cohort of elementary students. *Poster presentation at the annual conference of the Association for Education Finance and Policy*, Portland, OR.
- Gottfried M. A. & **Kirksey, J. J.** (2018). Going to sleep and going to school: Linking bedtime to student absenteeism. *Poster presentation at the annual conference of the Association for Education Finance and Policy*, Portland, OR.
- Gottfried M. A. & **Kirksey, J. J.** (2018). Linking kindergartners’ bedtime and sleep to chronic absenteeism. *Paper presentation at the annual conference of the American Educational Research Association*, New York, NY.
- Gottfried, M. A., Hutt, E. L., & **Kirksey, J. J.** (2018). Policy, preparation, and perception: Do new teachers feel ready to educate students with learning disabilities. *Paper presentation at the annual conference of the American Educational Research Association*, New York, NY.
- **Kirksey, J. J.** & Gottfried, M. A. (2018). Classmates missing school: Linking peers’ absenteeism to student test performance. *Poster presentation at the annual conference of the American Educational Research Association*, New York, NY.
- **Kirksey, J. J.** (2018). Back to school each day and on-time: Connecting missed school in early months to the months that follow. *Paper presentation at The Asian Conference on Education & International Development*, Kobe, Japan.
- **Kirksey, J. J.** (2018). Literacy, numeracy, and problem-solving: Which skills are facilitating STEM degrees for adults with disabilities? *Paper presentation at The Asian Conference on Education & International Development*, Kobe, Japan.
- **Kirksey, J. J.**, Gottfried, M. A., & McGinnis, C. M. (2018). Catholic school effect on attendance in kindergarten: Evidence from a nationally representative cohort. *Paper presentation at the International Conference on School Choice and Reform*, Fort Lauderdale, FL.

Presentations in 2017

- Gottfried, M. A., Hutt, E. L., & **Kirksey, J. J.** (2017). Policy, preparation, perception: California math/science teachers and students with disabilities. *Paper presentation at the Annual California STEAM Conference*, San Francisco, CA.
- **Kirksey, J. J.** (2017). Classmates missing school: Linking peers’ absenteeism to student test performance. *Paper presentation at the annual conference of the American Educational Research Association*, San Antonio, TX.
- **Kirksey, J. J.** (2017). Familiar faces and attendance: How classmates from the previous school year influence attendance. *Paper presentation at the annual conference of the American Educational Research Association*, San Antonio, TX.

- **Kirksey, J. J.** (2017). Literacy, numeracy, and problem solving: Which skills are facilitating STEM degrees for adults with disabilities? *Paper presentation at the annual conference of the American Educational Research Association*, San Antonio, TX.
- **Kirksey, J. J.** (2017). Literacy, numeracy, and problem solving: Which skills are facilitating STEM degrees for adults with disabilities? *Paper presentation at the annual conference of the National Organization of Gay and Lesbian Scientists and Technical Professionals*, Danvers, MA.
- Gottfried, M. A. & **Kirksey, J. J.** (2017). ‘When’ students miss school: The role of timing of absenteeism on student achievement. *Paper presentation at the annual conference of the American Educational Research Association*, San Antonio, TX.
- **Kirksey, J. J.** (2017). Classmates missing school: Linking peers’ absenteeism to student test performance. *Paper presentation at the Association for Public Policy Analysis and Management California Regional Student Conference*, Riverside, CA.
- **Kirksey, J. J.** & Gottfried, M. A. (2017). Spillover effects of missing school on achievement: Disentangling the role of classmate and individual absences. *Paper presentation at the biennial conference of the Society for Research on Child Development*, Austin, TX.
- **Kirksey, J. J.** & Morgan, M. V. C. (2017). Literacy, numeracy, and problem solving: Which skills are facilitating STEM degrees for adults with disabilities? *Poster session at the biennial conference of the Society for Research on Child Development*, Austin, TX.
- Eusterbrock, M., **Kirksey, J. J.**, & Gottfried, M. A. (2017). Peer effects of missing school: How does classmate attendance influence individual test performance? *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Washington, D.C.
- **Kirksey, J. J.** & Gottfried, M. A. (2017). Peer effects of missing school: How does classmate attendance influence individual test performance? *Paper presentation at the annual conference of the Association for Education Finance and Policy*, Washington, D.C.

Presentations in 2016

- **Kirksey, J. J.** (2016). Familiar faces and attendance: How classmates from the previous school year influence attendance. *Paper presentation at the annual conference of the California Educational Research Association*, Sacramento, CA.
- Gottfried, M. A. & **Kirksey, J. J.** (2016). Math instruction and compositional changes. *Paper presentation at the annual conference of the California Educational Research Association*, Sacramento, CA.
- **Kirksey, J. J.** & Gottfried, M. A. (2016). Peer effects and the learning context for boys and girls. *Paper presentation at the annual conference on Social Justice in Education at CSU Channel Islands*, Camarillo, CA.
- Gottfried, M. A., Egalite, A., & **Kirksey, J. J.** (2016). Does the presence of a classmate with an EBD affect other kids’ absences? *Paper presentation at the annual conference of the American Educational Research Association*, Washington, D.C.

Invited Talks

- **Kirksey, J. J.**, Wiseman, A., Gottlieb, J. J., Lansford, T., Mansell, K., & Crevar, A. (2022). Bold action for a prosperous future: Evaluation of Texas House Bill 5 and academic and career trajectories

of Texas public high school graduates. *Presentation at the Central Texas Education Research Collaborative bimonthly meeting*, Virtual.

- **Kirksey, J. J.**, Wiseman, A., Gottlieb, J. J., Lansford, T., Mansell, K., & Crevar, A. (2022). Bold action for a prosperous future: Evaluation of Texas House Bill 5 and academic and career trajectories of Texas public high school graduates. *Presentation at the Leibniz Institute for Research and Information in Education*, Frankfurt, DE.
- **Kirksey, J. J.**, Wiseman, A., Gottlieb, J. J., Lansford, T., Mansell, K., & Crevar, A. (2022). Bold action for a prosperous future: Evaluation of Texas House Bill 5 and academic and career trajectories of Texas public high school graduates. *Presentation at the University of Houston Education Research Center Brown Bag Series*, Virtual.
- **Kirksey, J. J.** (2022). Expanding North Texas teacher pathways: Creating an inclusive, equipped, and sustainable workforce. *Panel policy talk at special symposium hosted by the Communities Foundation of Texas*, Dallas, TX.
- **Kirksey, J. J.**, Wiseman, A., Gottlieb, J. J., Lansford, T., Mansell, K., & Crevar, A. (2022). Bold action for a prosperous future: Evaluation of Texas House Bill 5 and academic and career trajectories of Texas public high school graduates. *Presentation at the Educate Texas convening of the Texas Student Success Council*, Austin, TX.
- Gottlieb, J. J., & **Kirksey, J. J.** (2022). Preparing teachers for Texas: An evaluation of Tech Teach and Tech Teach Across Texas. *Paper presentation at the Learning Tour of the University-School Partnerships for the Renewal of Educator Preparation (US PREP)*, Fort Worth, TX.
- **Kirksey, J. J.** (2022). Familiar faces: How having the same peers year-to-year links to student attendance. *Paper presentation at the "A is for Attendance" Education Research Conference sponsored by the American Educational Research Association*, Detroit, MI.
- **Kirksey, J. J.** (2021). Academic harms of missing school and the accuracy of current policy thresholds: Analysis of preregistered administrative data from a California school district. *Paper presentation at the School Effectiveness and School Improvement SIG's award session at the annual conference of the American Educational Research Association*, Virtual.
- **Kirksey, J. J.** (2021). From court to classroom: The extent of unexpected consequences of deportation proceedings on science, math, and reading achievement for elementary students from 1998 to 2016. *Poster presentation in dissertation fellows award session at the annual conference of the American Educational Research Association*, Virtual.
- Gottfried, M. A., & **Kirksey, J. J.** (2020). Summary: Preservice preparation of teachers to support the inclusion of students with learning disabilities. *Paper presentation at Policy Analysis for California Education*, Sacramento, CA.
- **Kirksey, J. J.** (2019). Going beyond what is expected: ICE enforcement and chronic absenteeism of migrant and non-migrant students in a California school district. *Paper presentation at the University of California Center Sacramento lunchtime lecture series*, Sacramento, CA.
- **Kirksey, J. J.** & Gottfried, M. A. (2019). School breakfast and schooling outcomes: Does meal location matter? *Paper presentation at the Telethon Kids Institute Research Seminar Series*, Perth, Australia.
- **Kirksey, J. J.** & Gottfried, M. A. (2019). School breakfast and schooling outcomes: Does meal location matter? *Paper presentation at the Melbourne Institute at the University of Melbourne*, Melbourne, Australia.

- **Kirksey, J. J.** (2018). PIAAC and the STEM pipeline: What the U.S. has learned about preparing underrepresented populations for STEM education? *Invited paper presentation at the Institute for Educational Sciences and Educational Testing Service PIAAC Conference, Washington D.C.*

Teaching Experience

*Denotes new PhD course developed

TTU

*Causal Inference I: Panel Data Methods, *PhD students*

- Spring 2024

*Causal Inference II: Matching and Instrumental Variables, *PhD students*

- Summer 2024

*Causal Inference, *PhD students*

- Summer 2021, Summer 2022, Spring 2023

*Data Management for Quantitative Methods, *PhD students*

- Spring 2022, Fall 2022, Fall 2023

*Economics of Education, *PhD students*

- Fall 2022

*Educational Policy Analysis Methods, *PhD students*

- Fall 2020, Fall 2021, Summer 2023

Introduction to Educational Policy, *PhD students*

- Spring 2021

*Policy-to-Practice, *PhD students*

- Summer 2020, Spring 2023

Quantitative Methods, *Undergraduate students*

- Fall 2021, Spring 2022

*Teacher Labor Markets, *PhD students*

- Fall 2023

Workshops

Master Class in Fixed Effects Models, *PhD students, Institutional Researchers, and Faculty*

- Spring 2019, University of Sydney; Spring 2021, TTU

Causal Inference with Bigger and Better Data, *PhD students, Institutional Researchers, and Faculty*

- Summer 2018, UCSB; Spring 2019, Telethon Kids Institute; Summer 2019, UCSB

Advising and Mentoring

Postdoctoral Scholars

Angela Crevar, TTU, 2023-present

Graduate Research Assistants

Teresa Lansford, TTU, 2021-present

Braden Becknell, TTU, 2023-present

Ph.D. Students (Committee Chair)

Angela Cirino, TTU, 2023
Deidra Crain, TTU, 2023
Angela Crevar, TTU, 2023
Levi Johnson, TTU, 2023
Kristin Mansell, TTU, 2023
Teresa Lansford, TTU (current)
Jennifer Nichols, TTU (current)
Carolyn Phillips, TTU (current)
Andrew Roland, TTU (current)
Emmalea Salley, TTU (current)
David Stokowski, TTU (current)
Nicholas Varney, TTU (current)

Ph.D. Students (Committee Methodologist)

Adrienne Nenow, TTU, 2023
Annette Macias, TTU, 2023
Jessica Nadzam, TTU (current)
Emily Robison, TTU (current)
Andrea Rodriguez, TTU (current)
Amanda Tremain, TTU (current)

Carolyn Phillips, TTU, 2023-present
Emily Robison, TTU, 2023-present
Andrew Roland, TTU, 2023-present
Nick Varney, TTU, 2023-present
Angela Crevar, TTU, 2021-23
Kristen Mansell, TTU, 2021-23
Levi Johnson, TTU, 2020-23
Joseph Elefante, TTU, 2020-22
Andrea Rodriguez, TTU, 2021-22

Undergraduate Research Assistants

Shruti Nagawekar, TTU, 2022-present
Mason Reyna, TTU, 2022-present
Jaden Hendrix, TTU, 2022-23
Andras Horvath, TTU, 2020-22
Elijah Hand, TTU, 2020-22
Kevin Alonso, TTU, 2021
Spencer Knighton, TTU, 2021
Lena Sarr, TTU, 2021
Jerod Jones, TTU, 2020-21
Jennifer Freeman, UCSB, 2017-19
Rachael Karawan, UCSB, 2017-19
Matias Eusterbrock, UCSB, 2016-17

Academic Honors, Fellowships, and Awards

Texas Tech Alumni New Faculty Award, *TTU College of Education*: 2023
Outstanding Faculty Mentor Award, *TTU Center for Transformative Undergraduate Research Experiences*: 2022
Selected Participant, *TTU Institute for Inclusive Excellence*: 2021-22
Open Access Advocacy Award, *TTU Libraries*: 2021
Best Graduate Student Paper Award, *AERA SIG School Effectiveness and School Improvement*: 2021
Selected Participant, *UC-Berkeley Interdisciplinary Migration Initiative Summer Institute in Migration Research Methods*: 2021
Graduate Research Fellowship, *National Science Foundation*: 2017-20
Dissertation Grant, *American Educational Research Association*: 2019-20
Dissertation Award, *UCSB Chicano/a Studies Institute*: 2019-20
Emerging Education Policy Scholar, *Fordham Institute and American Enterprise Institute*: 2018-19
PhD Fellow, *California Teacher Education Research and Improvement Network*: 2018-19
Emerging Scholars Award for Excellence in Research and Public Policy, *UC Center Sacramento*: 2019
Department of Education Excellence Award for Research, *GGSE*: 2019

Emerging Scholar in Educational Politics, *William L. Boyd National Workshop, AERA Division L*: 2018
 Dean's Graduate Mentoring Award, *UCSB Graduate Division*: 2018
 Margaret T. Getman Service to Students Award (finalist), *UCSB Student Affairs*: 2018
 Instructional Fellowship, *UCSB College of Letters & Sciences*: 2016-17
 Block Grant Fellowship, *Department of Education, GGSE*: 2015-17
 Selected Participant, *American Enterprise Institute's Education Policy Academy*: 2017
 Robin Satterwhite Prize for Most Outstanding Thesis in Economics, *Colorado College*: 2014
 Keller Family Venture Grant Award for Student Research, *Colorado College*: 2014
 Van Skilling Award for Economics Research, *Colorado College*: 2013

Selected Media Coverage

- Klein, A. (2023). Teachers from online-only prep programs hinder student achievement, report finds. *Education Week*. Retrieved from <https://www.edweek.org/>.
- Heath, K. (2023). Private school vouchers to lead state education priorities for Legislature. *Austin-American Statesman*. Retrieved from <https://www.statesman.com/>.
- Mizan, N. (2022). Fact-check: Is Abbott campaign right Texas has 90% high school graduation rate? *Austin-American Statesman*. Retrieved from <https://www.statesman.com/>. [Republished by *Yahoo News, San Antonio Express-News, Texas Standard*]
- Martínez-Beltrán, S. (2022). Gov. Abbott is betting on anti-immigration policies to win reelection. Will it work? *KUT Public Media Austin's NPR Station*. Retrieved from <https://www.kut.org>.
- Murray, J. (2022). What does teacher certification contribute to outcomes for students with disabilities? *Fordham Institute*. Retrieved from <https://fordhaminstitute.org>.
- Donaldson, E., Richman, T., & Smith, C. (2022). Texas' 'wild west' teacher prep landscape could make teacher shortage worse. *Dallas Morning News*. Retrieved from <https://www.dallasnews.com/>.
- Donaldson, E., Richman, T., & Smith, C. (2022). Too big to fail? Texas' largest teacher prep program riddled with problems, state finds. *Dallas Morning News*. Retrieved from <https://www.dallasnews.com/>.
- Habib, Y. (2021). New study shows Latinx students attend class more if the teacher is Latinx. *BELatina*. Retrieved from <https://www.belatina.com>.
- Barshay, J. (2020). Study: Deportations widen Latino-White achievement gaps at school. *The Hechinger Report*. Retrieved from <https://hechingerreport.org/>.
- Barnum, M. & Belsha, K. (2020). Students will go back to school eventually. Here are 5 concrete ideas for helping them catch up, readjust. *Chalkbeat*. Retrieved from <https://www.chalkbeat.org/>.
- Boudreau, C. (2020). Schools in Nevada and Colorado saw a 6 percentage point drop in chronic absence after offering so-called breakfast After the bell programs. *Politico*. Retrieved from <https://www.politico.com/>.
- McAuliffe, D. (2020). Nutrition programs feed student success. *Richmond Times-Dispatch*. Retrieved from <https://www.richmond.com/>.
- Russell, D. (2020). More school breakfasts mean fewer absences. *Queens Chronicle*. Retrieved from <https://www.qchron.com/>.

- Knudson, A. (2020). Breakfast during school day could reduce chronic absences, report shows. *Silive.com*. Retrieved from <https://www.silive.com/>.
- Buzalka, M. (2020). Report: Breakfast after the bell can significantly reduce chronic absenteeism. *Food Management*. Retrieved from <https://www.food-management.com/>.
- The Wall Street Journal Editorial Board. (2018). The Catholic school difference. *The Wall Street Journal*. Retrieved from <https://www.wsj.com/>.
- Barnum, M. (2018). Students show up to school more often when they see ‘familiar faces,’ new study finds. *Chalkbeat*. Retrieved from <https://www.chalkbeat.org/>.
- Gross, A. (2018). Seeing 'familiar faces' among peers over the long-term boosts students' classroom comfort. *Education Dive*. Retrieved from <https://www.educationdive.com/>.
- Hessen, L. (Producer). (2018). The Guy Gordon Show [Audio podcast episode]. Retrieved from <https://castbox.fm/The-Guy-Gordon-Show>.

Service

Profession

- Secretary/Treasurer, *AERA School Effectiveness and School Improvement SIG: 2022-24*
- Section Chair, *AERA Division L Program Committee: 2022-24*
- Ad Hoc Reviewer
 - *AERA Open (7): 2018-22*
 - *American Educational Research Journal (5): 2020-23*
 - *American Journal of Education (1): 2022*
 - *Educational Evaluation and Policy Analysis (4): 2020-23*
 - *Educational Policy (1): 2019*
 - *Educational Psychologist (2): 2020*
 - *Educational Researcher (7): 2018-2023*
 - *Exceptional Children (3): 2021-2022*
 - *Journal for Research on Educational Effectiveness (2): 2019-22*
 - *Journal of Education for Students Placed at Risk (1): 2023*
 - *Remedial and Special Education (1): 2023*
 - *Review of Educational Research (1): 2021*
 - *Social Forces (1): 2020*
 - *Sociology of Education (3): 2022-23*
 - *Studies in Educational Evaluation (1): 2020*
- Student Editorial Board Member, *American Journal of Education: 2018-19*
- Committee Member, *AERA Division D Mentoring Committee: 2017-18*
- Outreach Officer and Committee Member, *AERA Division D Graduate Student Committee: 2017-19*

University

- Member, *TTU Strategic Enrollment Planning Committee: 2023-present*
- Reviewer, *Scholarship Catalyst Program: 2023*
- Member, *TTU Convocations Committee: 2021-present*

College

- Member, *Graduate Research Education Ad Hoc Committee: 2022-present*
- Member, *Research Professor Faculty Search Committee: 2023-24*

- Member, *Educational Leadership Policy Faculty Search Committee*: 2023-24
- Member, *CIRCLE Postdoctoral Associate Search Committee*: 2023
- Member, *School Leadership Faculty Search Committee*: 2022-23
- Member, *Educational Leadership Policy Faculty Search Committee*: 2021-22

Department

- Creator and Organizer, *Education Policy Brown Bag Series, "ExpandED: Broadening the Understanding of Contemporary Issues in Education and Policy:"* 2020-23
- PhD Student Representative, *GGSE Education Department Graduate Recruitment Committee*: 2016-20
- Coordinator, *National Conference on Advancing Individual Differences Research for STEM Learning Opportunities (AERA-UCSB)*: 2015-16
- Coordinator, *UCSB-Florida A&M Summer Institute in Education Policy Research*: 2015

Program

- Chair, *Community Engagement Committee*: 2021-present
- Member, *Recruitment/Admissions Committee*: 2020-present
- Member, *Program Development Committee*: 2020-present

Community

- Faculty Representative, *Research-to-Practice Partnership- Lubbock Education Policy Initiative*: 2021-present
- Volunteer, *Colorado College Speech/Debate Team*: 2015-present

Professional Affiliations

American Educational Research Association
 Association for Education Finance and Policy
 Association for Public Policy Analysis and Management
 Society for Research in Child Development
 Society for Research on Educational Effectiveness



REQUEST FOR APPROVAL OF THE 2024-2025 ECTOR COUNTY ISD PROFESSIONAL LEARNING PLAN

The Board is being asked to approve the 2024-2025 Ector County ISD Professional Learning Plan. Ector County ISD board policy DMA (local) stipulates that the Superintendent shall recommend the District's professional development plan for all District employees. The Board shall annually review the professional development clearinghouse published by the State Board for Educator Certification (SBEC) and annually approve the District's professional development plan. The District's professional development plan must:

- Be guided by the SBEC clearinghouse training recommendations
- Note any differences in the District's plan from the clearinghouse recommendations; and
- Include a schedule of the required professional development for all District employees.

Professional Development required by ECISD meets at least the minimum as outlined in the SBEC clearinghouse and in many cases, ECISD requires more than set forth in the SBEC clearinghouse.

Administrative Recommendation:

Approval of the Ector County ISD Professional Learning Plan

Professional Learning Plan



Ector County ISD School Board of Trustees



Chris Stanley
President
Position 4



Delma Abalos
Vice-President
Position 2



Tammy Hawkins
Secretary
Position 6



Dawn Miller
Position 1



Wayne Woodall
Position 3



Dr. Steve Brown
Position 5



Bob Thayer
Position 7

Board Goals

To accomplish our mission, the following three board goals serve as the mark to hit by the end of the strategic plan, at the end of the 2024 school year.

1

The percentage of students achieving or exceeding the meets standard on state assessments will increase from 32% to 60% by May 2024 across all tested content areas.

2

The percentage of 3rd grade students reading at or above grade level will increase from 35% to 45% by May 2024.

3

The percentage of high school graduates considered College, Career or Military Ready will increase from 56% to 65% by May 2024.

Ector County ISD strives to achieve a **Culture of Learning** for all students and adults in our system. The following statements embody what ECISD believes about Professional Learning.

We believe that professional learning should be personalized and intended for career progression.

ECISD believes that professional learning should be relevant, engaging, and aligned to needs and goals.

ECISD believes that professional learning should be research-based delivered by knowledgeable presenters, and rooted in best practices.

ECISD believes that professional learning should be ongoing, applied, and add value to the individual and organization.

847

ECISD believes that professional learning should be mindful of the participants and socially conscious.



What is Professional Learning?

Personalized Professional Learning (PPL) in Ector County ISD is a research-based approach that customizes each employee's individual needs, incorporating job-embedded experiences for immediate classroom impact. By acknowledging all staff's strengths and growth areas, PPL empowers them to choose from various learning methods like workshops, peer collaborations, and coaching, fostering continuous improvement. Prioritizing relevance and applicability in our staff's daily routines, PPL encourages collaboration and collective inquiry to enhance instructional practices and improve student outcomes district-wide.



2024-2025

Academic Calendar Supplement

New Teacher University & Welcome

July 29: 8:00-3:45 & July 30-31: 8:00-4:00

Location: Crossroads Fellowship

July 29: 4:00-6:00

New Teacher Welcome

MCM Grande Hotel & Fundome

Back To School

August 1, 2024

- Campus PL

August 2, 2024

- **ELEM CAMPUS/SEC C&I**

August 5, 2024

- **SEC CAMPUS/ELEM C&I**

August 6, 2024

- Campus PL/Convocation

August 7, 2024

- **ELEM Teacher University**
- **Secondary District PL**

August 8, 2024

- **SEC Teacher University**
- **Elementary District PL**

August 9, 2024

- Teacher Workday

Professional Learning Days

October 14, 2024

- Campus/District PL

November 4, 2024

- District PL

December 20, 2024

- Campus/Records Day

January 6, 2025

- Campus/District PL

March 7, 2025 (Early Release)

- **Campus PL**
- **West Texas Relays**

May 23, 2025

- Records Day

Required UIL Training for Athletic Coaches Only

July 26, 2024 Location: Crossroads Fellowship

August 8, 2024 AM Permian HS & PM Odessa HS



Safe Schools

Ector County ISD board policy DMA (local) stipulates that the Superintendent shall recommend the District’s professional development plan for all District employees. The Board shall annually review the professional development clearinghouse published by the State Board for Educator Certification (SBEC) and annually approve the District’s professional development plan. The District’s professional development plan must:

1. Be guided by the SBEC clearinghouse training recommendations
2. Note any differences in the District’s plan from the clearinghouse recommendations; and
3. Include a schedule of the required professional development for all District employees.

Professional Development required by ECISD meets at least the minimum as outlined in the SBEC clearinghouse and in many cases, ECISD requires more than set forth in the SBEC clearinghouse. The schedule for required professional development for all district employees is as follows: Required Professional Learning

SBEC Requirements	Additional Requirements
Suicide Prevention	Cybersecurity
Positive Relationships and Conflict Resolution	Bloodborne Pathogen Exposure Prevention
Bullying	Integrated Pest Management
Safety Training	Making Schools Safe and Inclusive for LGBTQ+ Students
Awareness of Child Maltreatment	Material Safety Data Sheets
Trauma-Informed Care	Standard Response Protocol
Epinephrine Auto Injector Use	Student Alcohol & Substance Misuse
	Students Experiencing Homelessness: Awareness and Understanding
	Child Sex Abuse Prevention
	Seizure Training for School Personnel
	850 Rights in Child Nutrition Programs

Novice Teachers



Ector County ISD dedicates itself to empowering novice educators through comprehensive professional learning opportunities during their initial years of teaching. This commitment reflects a recognition of the crucial role personalized support and ongoing development play in adapting to educational changes and fostering excellence in teaching practices.

2024 COUNTDOWN TO LIFTOFF: UPCOMING PROFESSIONAL LEARNING

Save these Dates

Introduction to ECISD

Admin. Building 9:00 - 11:00 am

[Choose from one of these dates](#)

- May 14th Conf. A/B
- Jun 4th Conf. Rm E
- June 18th Conf. Rm E
- July 9th Conf. Rm E
- July 16th Conf. Rm A/B

Please RSVP for your date of choice



bit.ly/ecisdlaunch

New Teacher University

July 29th-31st

8 am-4 pm

Crossroads Fellowship

[Wristbands for NT Welcome distributed](#)

New Teacher Welcome

July 29th

4 pm-6 pm

MCM Elegante Fundome

[Wristbands required to enter](#)

Teacher University

Aug. 7th (Elementary)

Aug. 8th (Secondary)

8 am -4 pm

Permian High School

Opportunity Culture is....

OPPORTUNITY CULTURE

An Initiative of
Public Impact

A strategic staffing strategy that is proven to provide all students access to excellent teaching and all educators access to outstanding career opportunities.

ECISD's Campus Cohorts

2020-2021 Cohort A Campuses		2021-2022 Cohort B Campuses		2022-2023 Cohort C Campuses	
1	Blackshear ES	9	Burnet ES	18	Cavazos ES
2	E.K. Downing ES	10	Dowling ES	19	San Jacinto ES
3	Sam Houston ES	11	Fly ES	20	West ES
4	Ross ES	12	Goliad ES		
5	Crockett MS	13	Noel ES		
6	Nimitz MS	14	Pease ES		
7	Wilson & Young MS	15	Bonham MS		
8	Odessa HS	16	Bowie MS		
		17	Permian HS		



Overview

The Reading Language Arts Department in ECISD is dedicated to empowering students with the essential skills of reading, writing, listening, and speaking. Our mission is to cultivate a lifelong love for literacy, enabling students to become critical thinkers, effective communicators, and engaged learners.

Responsibilities

The RLA Department supports the implementation of a rigorous literacy curriculum, ensuring alignment with RLA standards. We provide continuous professional learning for teachers in research-based instructional practices, focusing on the Science of Reading. Through data analysis, we customize instructional resources and professional development to address the diverse needs of our teachers and students, supporting differentiation and intervention. Our mission is to advocate for high-quality literacy instruction, preparing students for academic excellence and beyond.

Initiatives

Professional Learning

Key areas for Professional Learning:

- Foundational Skills
- Vocabulary
- Reading Workshop
- Guided Reading/ Literacy Centers
- Writing Workshop

Professional Learning Opportunities



CURRICULUM AND INSTRUCTION

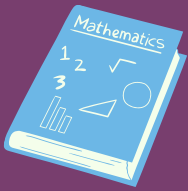
Overview

The goal of the Math department is to ensure that students develop a solid foundation in mathematical concepts and skills. This includes building numeracy, problem solving abilities, critical thinking skills, and a positive attitude towards mathematics.



Responsibilities

The curriculum and instruction math department is responsible for developing, updating, and aligning the math curriculum with standards, providing professional development for teachers, implementing effective instructional practices, analyzing assessment data, supporting differentiated instruction and intervention, monitoring curriculum effectiveness, staying informed about current research, and advocating for high-quality mathematics education.



Initiatives

The curriculum and instruction math department is responsible for developing, updating, and aligning the math curriculum with standards, providing professional development for teachers, implementing effective instructional practices, analyzing assessment data, supporting differentiated instruction and intervention, monitoring curriculum effectiveness, staying informed about current research, and advocating for high-quality mathematics education.



The key areas for professional learning include:

- Number Talks
- Lonestar Math
- Tier I instruction (Teaching with conceptual flow)
- Small group instruction- 3-5 iReady K-2 My Math Academy

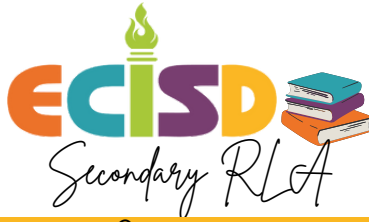
Professional Learning



Professional Learning Opportunities

- July 22-24 - Leadership University- RBIS Look fors Conceptual Flow Lesson 854
- July 30 - New Teacher Professional Learning
- August 5 - C&I Back to School Professional Learning
- August 7 - Teacher University
- September 11 - Number Talks





Overview

The Secondary Reading Language Arts program in ECISD is dedicated to cultivating a love of reading and critical thinking skills in our students, preparing them for success in college, career and life. We aim to develop proficient, thoughtful, and analytical readers who can engage deeply with diverse texts and communicate their ideas effectively.



Responsibilities

The Secondary RLA department works to ensure the delivery of high quality, rigorous, and Texas Essential Knowledge and Skills (TEKS) aligned curriculum through research-based instructional strategies, data-driven decisions, targeted interventions and methods to enhance student engagement. We provide continuous professional learning for teachers with the goal of positively impacting student outcomes. Through data analysis, we customize instructional resources, district created assessments and professional development to address the diverse needs of our teachers and students, supporting differentiation and intervention. Our mission is to advocate for high quality literacy instruction, preparing students for future academic and personal success.

Initiatives

Our Secondary RLA program is dedicated to implementing innovative and effective teaching practices that align to Research Based Instructional Strategies (RBIS). This commitment is reflected in our initiatives focusing on data-driven instruction, blended learning within the framework, and the use of high quality instructional materials. These initiatives aim to enhance literacy development, support diverse learning needs, and ensure academic excellence for all students.

Professional Learning

TIER I Core Instruction Training, which Includes*

- Framework (90 min/45 min/50 min)
- Word Study/Vocabulary
- Reader's Workshop
- Guided Comprehension/ Literacy Stations
- Writer's Workshop
- Backwards Planning
- Data Driven Instruction
- Data Talks with Students
- Research Based Instructional Strategies (RBIS)
- Texas College Bridge
- TSIA2



Professional Learning Opportunities

- July 22-24 - Leadership University- RBIS
- July 30 - New Teacher Professional Learning
- August 2 - C&I Back to School Professional Learning
- August 8 - Secondary Teacher University



Overview

Our mission is to provide a world-class language education by building proficiency in the skills of speaking, listening, reading, and writing in the target language through cultural understanding and the use of language in meaningful, real-life situations.

Responsibilities

The curriculum and instruction LOTE department is responsible for developing, updating, and aligning the LOTE curriculum with standards, providing professional development for teachers, implementing effective instructional practices, analyzing assessment data, supporting differentiated instruction and intervention, monitoring curriculum effectiveness, staying informed about current research, and advocating for high-quality LOTE education.

Initiatives

From our Spanish placement test and proficiency-based classes to our successful AP and IB programs, we are dedicated to motivating, empowering, and equipping students to become successful, culturally aware global citizens who can communicate and connect in our complex world. We are also committed to increasing the number of students receiving the Performance Acknowledgement in Bilingualism and Biliteracy.

Professional Learning

The key areas for professional learning include:

-

Professional Learning Opportunities

- July 22-24 - Leadership University- Spanish Placement Test Administration
- July 30 - New Teacher Professional Learning
- August 5 - C&I Back to School Professional Learning
- August 7 - Teacher University

NATIONAL BOARD

for Professional Teaching Standards®

National Board Certification for PD Catalog

National Board Certification was designed to develop, retain and recognize accomplished teachers and to generate ongoing improvement in schools nationwide. It's the highest certification a teacher may obtain in addition to being the most respected one.

The certification process requires that teachers demonstrate standards-based evidence of the positive effect they have on student learning in alignment with the **Five Core Propositions**.

They must exhibit a deep understanding of their students, content knowledge, use of data and assessments and teaching practice. They must also show that they participate in learning communities and provide evidence of ongoing reflection and continuous learning.

Next Informational Session:
May, 21st, Tue., 4:30 - 5:30

<https://ector.schoolobjects.com//wshop/default.aspx?cid=32590>



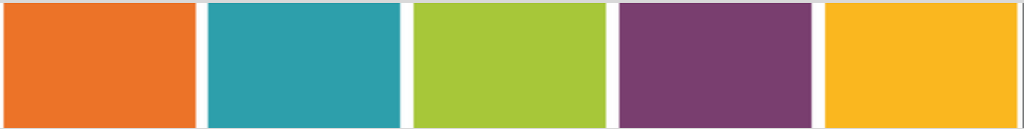
School Leaders Professional Development



Opportunity Monthly Principal Monthly Professional Learning			
Date:	Time:	Required:	Location:
August 20, 2024	Public Impact Training TBD	OC Campus Principals	Conference Room E Conference D Conference F
September 24, 2024	4:00-5:00	OC campus principals	Conference Room A/B Conference D Conference F
October 22, 2024	4:00-5:00	OC campus principals	Conference Room A/B Conference D Conference F
November 12, 2024	4:00-5:00	OC campus principals	Conference Room A/B Conference E
December 10, 2024	4:00-5:00	OC campus principals	Conference Room A/B
January 28, 2024			Conference Room A/B Conference Room E Conference Room F
February 25, 2025	4:00-5:00	OC campus principals	Conference Room A/B Conference E Conference Room F
March 27th	4:00-5:00	OC campus principals	Conference Room A/B Conferec Room E Conference Room F
May 17th	4:00- 5:00	OC campus principals	Conference Room A/B Conference Room D Conference Room E



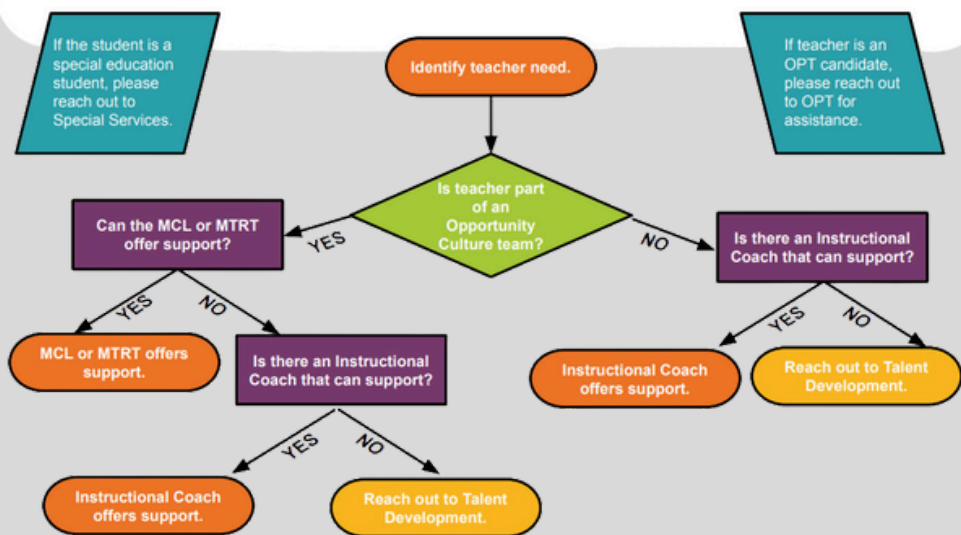
School Leader Training



EARLY CHILDHOOD EDUCATION



Teacher Classroom Management Support



Please use the Google Form linked [here](#) to reach out to the Talent Development department for assistance.

Welcome to ECISD AVID







Digital Learning













TO: Board of Trustees

FROM: Dr. Anthony Sorola, Associate Superintendent of Athletics, Human Capital and Operations and Alicia Syverson, Associate Superintendent of Student and School Support

SUBJECT: REQUEST FOR APPROVAL OF PERSONNEL RECOMMENDATION FOR THE EXECUTIVE DIRECTOR OF ACCOUNTABILITY AND SCHOOL IMPROVEMENT

DATE: June 18, 2024

Recommendation to hire Executive Director of Accountability and School Improvement

Administrative Recommendation:
Approval of Personnel Recommendation.



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Keeley Boyer, Chief of Schools

SUBJECT: REQUEST FOR APPROVAL OF RECOMMENDATION TO HIRE EXECUTIVE DIRECTOR OF LEADERSHIP

DATE: June 18, 2024

Recommendation to Hire Executive Director of Leadership.

Administrative Recommendation:

Approval of Personnel Recommendation to Hire Executive Director of Leadership.



FINANCIALS

The financial statements for the three required adopted budgets for the most recently closed month for the current fiscal year follow.

GENERAL FUND (199) YTD BUDGET REPORT
MAY 31, 2024

FOR 2024 11

	ORIGINAL APPROP	TRANFRS/ ADJSTMTS	REVISED BUDGET	YTD ACTUAL	ENCUMBRANCES	AVAILABLE BUDGET	PCT USE/COL
199 GENERAL FUND							
00 GENERAL LEDGER AND REVENUE	-331,728,451	-7,548,942	-339,277,393	-266,329,999.13	.00	-72,947,393.87	78.5%
11 INSTRUCTION	202,095,977	997,895	203,093,872	158,864,375.09	28,437,113.99	15,792,382.92	92.2%
12 INSTRUCTIONAL RES & MEDIA SERV	2,159,943	11,760	2,171,703	1,569,186.87	296,610.20	305,905.93	85.9%
13 CURRICULUM & STAFF DEVELOPMENT	8,719,086	-997,677	7,721,409	5,569,117.50	792,363.17	1,359,928.33	82.4%
21 INSTRUCTIONAL LEADERSHIP	5,656,651	-147,483	5,509,168	4,736,692.07	400,985.44	371,490.49	93.3%
23 SCHOOL LEADERSHIP	21,539,711	2,080,667	23,620,378	18,995,887.18	2,501,872.15	2,122,618.67	91.0%
31 GUID, COUNS & EVALUATION SERVS	13,981,624	1,868,307	15,849,931	12,525,465.82	2,888,168.16	436,297.02	97.2%
32 SOCIAL WORK SERVICES	1,811,527	-79,040	1,732,487	1,280,848.73	200,626.65	251,011.62	85.5%
33 HEALTH SERVICES	3,254,406	34,000	3,288,406	2,710,338.55	474,675.29	103,392.16	96.9%
34 STUDENT TRANSPORTATION	10,125,228	1,727,696	11,852,924	9,282,574.27	1,209,517.30	1,360,832.43	88.5%
36 CO/EXTRACURRICULAR ACTIVITIES	8,162,823	71,488	8,234,311	6,363,669.45	794,003.34	1,076,638.21	86.9%
41 GENERAL ADMINISTRATION	9,030,571	274,009	9,304,580	7,278,003.44	1,240,240.13	786,336.43	91.5%
51 FACILITIES MAINT & OPERATIONS	38,015,291	3,520,756	41,536,047	31,345,534.15	5,150,595.15	5,039,917.70	87.9%
52 SECURITY & MONITORING SERVICES	3,787,609	2,414,312	6,201,921	5,318,241.49	665,209.72	218,469.79	96.5%
53 DATA PROCESSING SERVICES	10,822,562	-1,104,732	9,717,830	7,409,322.22	1,968,129.34	340,378.44	96.5%
61 COMMUNITY SERVICES	1,558,309	119,183	1,677,492	1,379,710.01	201,222.62	96,559.37	94.2%
71 DEBT SERVICE	1,294,300	91,000	1,385,300	921,336.77	278,675.94	185,287.29	86.6%
81 FACILITIES ACQUISITION & CONST	1,500,000	13,759,846	15,259,846	10,396,277.22	2,764,885.82	2,098,682.96	86.2%
99 INTERGOVERNMENTAL CHARGES	2,132,882	0	2,132,882	1,545,965.25	586,916.75	.00	100.0%
TOTAL GENERAL FUND	13,920,049	17,093,045	31,013,094	21,162,546.95	50,851,811.16	-41,001,264.11	232.2%
TOTAL REVENUES	-332,253,451	-7,548,942	-339,802,393	-266,329,999.13	.00	-73,472,393.87	
TOTAL EXPENSES	346,173,500	24,641,987	370,815,487	287,492,546.08	50,851,811.16	32,471,129.76	
GRAND TOTAL	13,920,049	17,093,045	31,013,094	21,162,546.95	50,851,811.16	-41,001,264.11	232.2%

874

** END OF REPORT - Generated by BAUMANN, DUSTY **

SCHOOL NUTRITION (240) YTD BUDGET REPORT
 MAY 31, 2024

FOR 2024 11

	ORIGINAL APPROP	TRANFRS/ ADJSTMTS	REVISED BUDGET	YTD ACTUAL	ENCUMBRANCES	AVAILABLE BUDGET	PCT USE/COL
240 SCHOOL NUTRITION							
00 GENERAL LEDGER AND REVENUE	-18,064,278	-2,092,080	-20,156,358	-21,775,938.51	.00	1,619,580.51	108.0%
35 FOOD SERVICE	18,064,278	5,448,921	23,513,199	19,256,945.41	2,311,778.09	1,944,475.50	91.7%
TOTAL SCHOOL NUTRITION	0	3,356,841	3,356,841	-2,518,993.10	2,311,778.09	3,564,056.01	-6.2%
TOTAL REVENUES	-18,064,278	-2,092,080	-20,156,358	-21,775,938.51	.00	1,619,580.51	
TOTAL EXPENSES	18,064,278	5,448,921	23,513,199	19,256,945.41	2,311,778.09	1,944,475.50	
GRAND TOTAL	0	3,356,841	3,356,841	-2,518,993.10	2,311,778.09	3,564,056.01	-6.2%
** END OF REPORT - Generated by BAUMANN, DUSTY **							

DEBT SERVICE (599) YTD BUDGET REPORT
MAY 31, 2024

FOR 2024 11

	ORIGINAL APPROP	TRANFRS/ ADJSTMTS	REVISED BUDGET	YTD ACTUAL	ENCUMBRANCES	AVAILABLE BUDGET	PCT USE/COL
599 DEBT SERVICE FUND							
00 GENERAL LEDGER AND REVENUE	-46,520,000	-906,918	-47,426,918	-47,644,658.50	.00	217,740.50	100.5%
71 DEBT SERVICE	46,520,000	1,155,625	47,675,625	47,664,195.61	1,500.00	9,929.39	100.0%
TOTAL DEBT SERVICE FUND	0	248,707	248,707	19,537.11	1,500.00	227,669.89	8.5%
TOTAL REVENUES	-46,520,000	-26,271,918	-72,791,918	-73,005,908.50	.00	213,990.50	
TOTAL EXPENSES	46,520,000	26,520,625	73,040,625	73,025,445.61	1,500.00	13,679.39	
GRAND TOTAL	0	248,707	248,707	19,537.11	1,500.00	227,669.89	8.5%
** END OF REPORT - Generated by BAUMANN, DUSTY **							



PURCHASES OVER \$50,000 INFORMATIONAL REPORT

The purchases over \$50,000 for the previous month of the current fiscal year follow. The report includes all such large purchases, regardless of required previous board approval.

As per Board Policy CH (local), the Superintendent is not required to obtain Board approval for the following types of budgeted purchases, regardless of cost:

1. A purchase made pursuant to a Board-approved interlocal contract or a cooperative purchasing program, in accordance with law;
2. A purchase made through a state purchasing program that satisfies the District's obligation for competitive purchasing [see CH(LEGAL) or CBB(LEGAL)]; or
3. A continuing or periodic purchase under a Board-approved bid or contract.

ECISD New Purchase Orders Over \$50,000 Report for May 2024

Item	PO Date	PO#	Vendor Name	Amount	General Comments	Approval Process	1st GL Account	Requestor	Department
1	05/28/2024	24014269	MCGRAW-HILL SCHOOL EDUCATION LLC	\$ 2,363,385	PROCLAMATION 2024 SCIENCE (ELEMENTARY)	TIPS 210301	410-11-6321-00-999-11-41024	AMY MILLER	INSTRUCTIONAL MATERIALS
2	05/21/2024	24013987	MCGRAW-HILL SCHOOL EDUCATION LLC	\$ 1,538,891	K-5 PROC 2024 SCIENCE INVTIGATIONS KITS	TIPS 210301	410-11-6321-00-999-11-41024	AMY MILLER	INSTRUCTIONAL MATERIALS
3	05/21/2024	24014064	GATEWAY EDUCATION HOLDINGS LLC	\$ 918,340	TEXAS SCIENCE DIGITAL 4YR & LAB KIT PROC2024	ALLIED STATES 21-7409 & 22-7436	410-11-6321-00-999-11-41024	JADEN SOSA	INSTRUCTIONAL MATERIALS
4	05/21/2024	24013985	MCGRAW-HILL SCHOOL EDUCATION LLC	\$ 806,624	PROC 2024 SCIENCE (HIGH SCHOOL)	TIPS 210301	410-11-6321-00-999-11-41024	AMY MILLER	INSTRUCTIONAL MATERIALS
5	05/21/2024	24014065	GATEWAY EDUCATION HOLDINGS LLC	\$ 363,952	PROC 2024 PERSONAL FINANCIAL LIT-CTE CLASS SETS	ALLIED STATES 21-7409 & 22-7436	410-11-6321-00-999-11-41024	AMY MILLER	INSTRUCTIONAL MATERIALS
6	05/21/2024	24013989	N-TUNE MUSIC & SOUND INC	\$ 243,110	OHS BAND # 10	BUYBOARD 619-20, 644-21, & 655-21	693-11-6397-00-861-11-40224 693-11-6639-00-861-11-40224	THELMA CHAPA	FINE ARTS
7	05/16/2024	24013932	N-TUNE MUSIC & SOUND INC	\$ 229,150	PHS BAND #7	BUYBOARD 619-20, 644-21, & 655-21	693-11-6639-00-861-11-40224 693-11-6397-00-861-11-40224	THELMA CHAPA	FINE ARTS
8	05/21/2024	24014063	GATEWAY EDUCATION HOLDINGS LLC	\$ 217,440	EXPERIENCE MATERIALS REFILL KIT PROC 2024	ALLIED STATES 21-7409 & 22-7436	410-11-6321-00-999-11-41024	AMY MILLER	INSTRUCTIONAL MATERIALS
9	05/29/2024	24014303	NCULLUM ENTERPRISES LLC DBA WEST TEXAS REFRIGERATION	\$ 215,045	REPLACEMENT OF EXISTING REFRIGERATOR EQUIPMENT FROM COOLER TO FREEZER CONVERSION	ECISD AWARDED RFP 24-23SN ADDENDUM 2	240-35-6299-00-974-99-	RUTH BALTAZAR	SCHOOL NUTRITION
10	05/21/2024	24013988	MCGRAW-HILL SCHOOL EDUCATION LLC	\$ 113,295	PROC 2024 CTE CLASS SETS	TIPS 210301	410-11-6321-00-999-11-41024	AMY MILLER	INSTRUCTIONAL MATERIALS
11	05/29/2024	24014306	LVR COMMERCIAL FLOORING	\$ 99,222	REAGAN 21 ROOMS FLOORING	BUYBOARD 642-21	199-51-6246-00-965-99-	SABLE CORRALES	DISTRICT OPERATIONS 879
12	05/29/2024	24014308	LVR COMMERCIAL FLOORING	\$ 79,717	BLANTON 9 CLASSROOMS FLOORING	BUYBOARD 642-21	199-51-6246-00-965-99-	SABLE CORRALES	DISTRICT OPERATIONS
13	05/21/2024	24014066	GATEWAY EDUCATION HOLDINGS LLC	\$ 77,687	PROC 2024 AP AND ELECTIVES	ALLIED STATES 21-7409 & 22-7436	410-11-6321-00-999-11-41024	AMY MILLER	INSTRUCTIONAL MATERIALS
14	05/02/2024	24013221	ODESSA WINLECTRIC	\$ 65,000	BBUICE WEST & DOWNING LIGHTING REPLACEMENTS	ECISD AWARDED RFP #19-21	199-51-6316-00-955-99-	KENT CLARK	MAINTENANCE SERVICES
15	05/15/2024	24013924	THE CLAVIER GROUP INC	\$ 62,400	BONHAM REPLACEMENT PIANO #9	BUYBOARD 619-20	693-11-6639-00-861-11-40224	THELMA CHAPA	FINE ARTS
16	05/29/2024	24014307	LVR COMMERCIAL FLOORING	\$ 53,924	ROSS 10 CLASSROOMS FLOORING	BUYBOARD 642-21	199-51-6246-00-965-99-	SABLE CORRALES	DISTRICT OPERATIONS
17	05/02/2024	24013241	IMPERIAL BAG & PAPER LLC	\$ 50,866	FLOOR MAINTENANCE MACHINES, PARTS, AND ACCESSORIES 6 - CLK-56385417 ORBIT SCRUBB MACHINE	BUYBOARD 649-21	199-51-6639-00-960-99-	ROBERT PELUGH	CUSTODIAL OPERATIONS
18	05/21/2024	24013980	CENGAGE LEARNING INC	\$ 50,320	PROC 2024 FORENSICS	BUYBOARD 653-21 & 661-22	410-11-6321-00-999-11-41024	AMY MILLER	INSTRUCTIONAL MATERIALS

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
ODESSA, TX

MEMORANDUM

TO: DR. SCOTT MURI, SUPERINTENDENT OF SCHOOLS

FROM: DR. MATTHEW SPIVY, EXECUTIVE DIRECTOR OF HUMAN RESOURCES

RE: ROUTINE PERSONNEL REPORT FOR MAY 2024

DATE: 5/31/2024

Elementary Level Recommendations

NAME	JOB CLASS	CAMPUS	EFFECTIVE DATE
NONE			

Secondary Level Recommendations

NAME	JOB CLASS	CAMPUS	EFFECTIVE DATE
NONE			

Administrative Level Recommendations

NAME	JOB CLASS	CAMPUS/DEPARTMENT	EFFECTIVE DATE
ROBYN BIRKLA	DIR PLANNING & SCHOOL CHOICE	CHOICE PROGRAMS	5/1/2024
DIEGO CABALLERO	LEAP RECRUITING STRATEGIST	HUMAN RESOURCES	5/30/2024

Elementary Level Resignations

NAME	JOB CLASS	CAMPUS	EFFECTIVE DATE
MARIA ALVAREZ FERNANDEZ	SECOND-BILINGUAL	GOLIAD ELEMENTARY SCHOOL	5/24/2024
SUSAN ANGLIN	FIFTH GRADE (REG)	BUICE ELEMENTARY SCHOOL	5/24/2024
YIZEL ARMENDARIZ	FIRST GRADE (REG)	HAYS ELEMENTARY SCHOOL	5/24/2024
LISA ARMSTRONG	ELEMENTARY READ/DYSLEXIA INT	AUSTIN ELEMENTARY SCHOOL	5/24/2024
SHEILA ARMSTRONG WILSON	ELEM - MULTI CLASSROOM TEACHR	NOEL ELEMENTARY SCHOOL	5/24/2024
NATALIE BAEZA	FIFTH GRADE (REG)	GONZALES ELEM SCHOOL	5/24/2024
ARIANA BAILON	PRE-K (BIL)	ZAVALA ELEMENTARY SCHOOL	5/24/2024
BYRON BAULCH	FOURTH GRADE (REG)	JORDAN ELEMENTARY SCHOOL	5/24/2024
OLIVIA BOWERS	ELEM - MULTI CLASSROOM TEACHR	JOHNSON ELEM SCHOOL	5/24/2024
KAITLYN BRADDOCK	SECOND GRADE (REG)	PEASE ELEMENTARY SCHOOL	5/24/2024
JESSICA BROWN	THIRD GRADE (REG)	BUICE ELEMENTARY SCHOOL	5/24/2024

MIGUEL CARMONA ORO	FIFTH-BILINGUAL	E K DOWNING ELEMENTARY SCHOOL	5/24/2024
AUDREY CARRASCO	ELEM - MASTER TEAM REACH TEACH	GOLIAD ELEMENTARY SCHOOL	5/24/2024
MARIA CARRILLO	THIRD-BILINGUAL	JORDAN ELEMENTARY SCHOOL	5/24/2024
RACHEL CERVANTES	FIRST-BILINGUAL	BLACKSHEAR ELEM SCHOOL	5/24/2024
BRENDA CHAVEZ	SECOND GRADE (REG)	FLY ELEMENTARY SCHOOL	5/24/2024
BRENDA CHRISTIAN	MEDIA SPECIALST ELEM	PEASE ELEMENTARY SCHOOL	5/24/2024
LETICIA CLARK	FIFTH-BILINGUAL	DOWLING ELEM SCHOOL	5/24/2024
LEONA COLLING	SECOND GRADE (REG)	BLANTON ELEM SCHOOL	5/24/2024
CASANDRA CONTRERAS	FIRST GRADE (REG)	MILAM ELEMENTARY SCHOOL	5/24/2024
PAULINA CONTRERAS	MULTI GRD(REG) 4-5	AUSTIN ELEMENTARY SCHOOL	5/24/2024
MARYLYN CORNISH	FOURTH GRADE (REG)	TRAVIS ELEMENTARY SCHOOL	5/24/2024
ANNIE CORRALEZ	FIRST GRADE (REG)	CAVAZOS ELEM SCHOOL	5/24/2024
JENNIFER DANCEL	FOURTH GRADE (REG)	GONZALES ELEM SCHOOL	5/24/2024
WENDY DANE	ELEM-MUSIC OTHER	MILAM ELEMENTARY SCHOOL	5/24/2024
KELLY DAVIS	FIRST GRADE (REG)	REAGAN MAGNET SCHOOL	5/24/2024
MIREN ECHALECU LOPEZ	FIRST-BILINGUAL	CAMERON ELEMENTARY SCHOOL	5/24/2024
KANDAKE EL	THIRD GRADE (REG)	JOHNSON ELEM SCHOOL	5/24/2024
SANDRA ELMS	ELEM-ART	GALE POND ALAMO ELEM SCHOOL	5/24/2024
KARY EVANS-BAILEY	FIFTH GRADE (REG)	JORDAN ELEMENTARY SCHOOL	5/24/2024
SAVANNAH FALCON	FIRST GRADE (REG)	E K DOWNING ELEMENTARY SCHOOL	5/24/2024
CELIA MARIA GARCIA DEL BRIO	KINDER-(BIL)	DOWLING ELEM SCHOOL	5/24/2024
LAURA GASION ROYO	THIRD-BILINGUAL	E K DOWNING ELEMENTARY SCHOOL	5/24/2024
CARL GOODEN	ELEM SPED-LD-CM-RESOURCE	FLY ELEMENTARY SCHOOL	5/24/2024
JULIE GRAHAM	KINDER (REG)	IRELAND ELEM SCHOOL	5/24/2024
SHANNON GREENLEE	ELEMENTARY READ/DYSLEXIA INT	GOLIAD ELEMENTARY SCHOOL	5/24/2024
SARA GUTIERREZ	FIFTH GRADE (REG)	BLACKSHEAR ELEM SCHOOL	5/24/2024
LEESA HARRINGTON	FIRST GRADE (REG)	BLANTON ELEM SCHOOL	5/24/2024
JACQUELYNN HINTZ	FIRST GRADE (REG)	BUICE ELEMENTARY SCHOOL	5/24/2024
BETHANY HOOD	ELM-P E	LAMAR EARLY EDUC CENTER	5/24/2024
STEPHANIE JOHNSON	ELEM SPEC ED (E-CH)	CARVER EARLY EDUC CENTER	5/24/2024
CHON LEE	SECOND-ESL	CAMERON ELEMENTARY SCHOOL	5/24/2024
KAYLA LOFTIN	ELM SPED-SPECIALIZED CLASSROOM	SAN JACINTO ELEM SCHOOL	5/24/2024
JOSE MANUEL LOPEZ JUAN	THIRD-BILINGUAL	DOWLING ELEM SCHOOL	5/24/2024
ALEJANDRA MARQUEZ	FIFTH GRADE (REG)	GOLIAD ELEMENTARY SCHOOL	5/24/2024
MAGGIE MARQUEZ	ELEM-MUSIC	GONZALES ELEM SCHOOL	5/24/2024
SYLVIA MARTINEZ	FIRST-BILINGUAL	DOWLING ELEM SCHOOL	5/24/2024
ANA MARTINEZ GUERRERO	FOURTH-BILINGUAL	CAVAZOS ELEM SCHOOL	5/24/2024
LAQUEETIA MATHIS	ELM-P E	THE STEM ACADEMY	5/24/2024
CATHERINE MCLEOD	ELEM-READING COACH	BURNET ELEMENTARY	5/24/2024
LAURA MERONO COELLO	FIRST-BILINGUAL	MILAM ELEMENTARY SCHOOL	5/24/2024
KELVIN MOLBY	ELM-P E	FLY ELEMENTARY SCHOOL	5/24/2024
MARISSA MOLINAR	FIRST GRADE (REG)	PEASE ELEMENTARY SCHOOL	5/24/2024
MAYRA MORALES	KINDER (REG)	JOHNSON ELEM SCHOOL	5/24/2024
YVETTE MORALES	ELM-P E	FLY ELEMENTARY SCHOO	5/24/2024
MAGDALENA MORENO	FIRST GRADE (REG)	BLACKSHEAR ELEM SCHOOL	5/24/2024

MARIA MURILLO ILLERA	PRE-K (BIL)	HAYS ELEMENTARY SCHOOL	5/24/2024
MONICA NIETO	FIRST GRADE (REG)	BLANTON ELEM SCHOOL	5/24/2024
PAULA PAQUETTE	ELEM SPEC ED (E-CH)	CARVER EARLY EDUC CENTER	5/24/2024
CRYSTAL PENA	ELEMENTARY READ/DYSLEXIA INT	DOWLING ELEM SCHOOL	5/24/2024
REGINA PEREZ	PRE-K (REG)	HAYS ELEMENTARY SCHOOL	5/24/2024
MIRANDA PHELPS	FIRST GRADE (REG)	BURLESON ELEM SCHOOL	5/7/2024
REGENIA PHELPS	FIFTH GRADE (REG)	BURLESON ELEM SCHOOL	5/7/2024
LINDSEY RATLIFF	KINDER (REG)	ZAVALA ELEMENTARY SCHOOL	5/24/2024
DONNA REESE	FOURTH GRADE (REG)	BUICE ELEMENTARY SCHOOL	5/24/2024
MEAGAN RENTERIA	KINDER (REG)	ZAVALA ELEMENTARY SCHOOL	5/24/2024
CRISTINA RODRIGUEZ VIDAL	KINDER-(BIL)	GOLIAD ELEMENTARY SCHOOL	5/24/2024
VACHON ROYALS	FIRST GRADE (REG)	BURNET ELEMENTARY	5/24/2024
CAROL RUDOLPH	SECOND GRADE (REG)	FLY ELEMENTARY SCHOOL	5/24/2024
ANGELICA RUIZ	FIFTH GRADE (REG)	MILAM ELEMENTARY SCHOOL	5/24/2024
STEPHANIE SALAS	SECOND GRADE (REG)	ZAVALA ELEMENTARY SCHOOL	5/24/2024
JULISSA SALINAS GARZA	FOURTH GRADE (REG)	JOHNSON ELEM SCHOOL	5/24/2024
REBECA SANCHEZ	ELM SPED-SPECIALIZED CLASSROOM	WEST ELEMENTARY SCHOOL	5/24/2024
SUSANA SANTIAGO MONTER	THIRD GRADE (REG)	E K DOWNING ELEMENTARY SCHOOL	5/24/2024
KAYLA SHIRLEY	FOURTH GRADE (REG)	JOHNSON ELEM SCHOOL	5/24/2024
SHARON STORY	ELEMENTARY TEACHER SPEC ASSIGN	TRAVIS ELEMENTARY SCHOOL	5/24/2024
GLADISOL TARIN	PRE-K (REG)	FLY ELEMENTARY SCHOOL	5/24/2024
REBECCA TARIN	SECOND-BILINGUAL	CAMERON ELEMENTARY SCHOOL	5/24/2024
CRISTAL TORRES	PRE-K (REG)	CARVER EARLY EDUC CENTER	5/24/2024
ASHLEY TSCHAUNER	KINDER (REG)	REAGAN MAGNET SCHOOL	5/24/2024
KAREN UNRUH	FIRST GRADE (REG)	REAGAN MAGNET SCHOOL	5/24/2024
ROBBIN WHITE	THIRD GRADE (REG)	MILAM ELEMENTARY SCHOOL	5/24/2024
KRISTINA WIGHT	MEDIA SPECIALST ELEM	GALE POND ALAMO ELEM SCHOOL	5/24/2024
JACLYN WOOD	FOURTH GRADE (REG)	TRAVIS ELEMENTARY SCHOOL	5/24/2024
KACEY KELLEY	MULTI GRD (REG) 4-5	AUSTIN ELEMENTARY SCHOOL	5/24/2024
REBECCA ORNELAS	FIFTH GRADE (REG)	BURNET ELEMENTARY	5/24/2024
BRANSON STORK	KINDER (REG)	BURNET ELEMENTARY	5/24/2024
ANGIE AMADO BOGOTA	KINDER (BIL)	DOWLING ELEM SCHOOL	5/24/2024
HILDA CHAVEZ	SECOND GRADE (REG)	GOLIAD ELEMENTARY SCHOOL	5/24/2024
MARIA MARTINEZ	PRE-K (REG)	GONZALES ELEM SCHOOL	5/24/2024
JUAN MARINO ROJAS	FOURTH GRADE (BIL)	NOEL ELEM SCHOOL	5/24/2024
JASMINE PERE	FIFTH GRADE (REG)	JOHNSON ELEM SCHOOL	5/24/2024
JUAN HERNANDEZ CARRENO	ELEM MUSIC	CAVAZOS ELEM SCHOOL	5/24/2024
ARALIE AMAYA	FOURTH - BILINGUAL	WEST ELEMENTARY SCHOOL	5/24/2024
CYNTHIA MELGOZA	SECOND GRADE (REG)	BUICE ELEMENTARY SCHOOL	5/24/2024
MARTHA OVERBY	ELEM CAMPUS INST COACH	IRELAND ELEM SCHOOL	5/24/2024
MAYRA FRANCO	KINDER	WEST ELEMENTARY SCHOOL	5/24/2024
KERI RAMIREZ	THIRD GRADE (REG)	FLY ELEMENTARY SCHOOL	5/24/2024

Secondary Level Resignations

NAME	JOB CLASS	CAMPUS	EFFECTIVE DATE
JAIDEN ABILA	DANCE	WILSON & YOUNG MIDDLE SCHOOL	5/24/2024

CYNTHIA ALLCORN	FAMILY/CNSUM SCI	ADVANCED TECHNICAL CENTER	5/24/2024
MARQUEE ALLISON	BUSINESS/COACH	ODESSA HIGH SCHOOL	5/24/2024
BRITTANY AMBURGEY	SECONDARY SPED-SC	CROCKETT MIDDLE SCHOOL	5/24/2024
MELISSA ARZOLA	ART	CROCKETT MIDDLE SCHOOL	5/24/2024
KIMVIE BATUSBATUSAN	MATH	ODESSA HIGH SCHOOL	5/24/2024
ANURADHA BILUGU	ENGLISH	PERMIAN HIGH SCHOOL	5/24/2024
TABITHA BLAIN	CHORAL DIR- ASST MS	BONHAM MIDDLE SCHOOL	5/24/2024
COURTNEY BRANSCUM	DANCE INSTRUCTOR	PERMIAN HIGH SCHOOL	5/24/2024
SAM BROWN	SPED/COACH	PERMIAN HIGH SCHOOL	5/24/2024
JENNIFER CALDWELL	MATH	BONHAM MIDDLE SCHOOL	5/24/2024
REINADANICA CANONIGO	MATH	CROCKETT MIDDLE SCHOOL	5/24/2024
STEVE CHANDLER	MATH	PERMIAN HIGH SCHOOL	5/24/2024
NICOLE CLOWSON	SOCIAL STUDIES	ODESSA HIGH SCHOOL	5/24/2024
PRISCILA COLCHADO OLVERA	MATH	ODESSA HIGH SCHOOL	5/24/2024
CYNTHIA CONALLY	SECONDARY SPED INC/RES	PERMIAN HIGH SCHOOL	5/24/2024
AMBER CURNUTT	SECONDARY - MULTI CLASSROOM LDR	BOWIE MIDDLE SCHOOL	5/24/2024
LEANNA DAVIS	SECONDARY SPED INC/RES	BONHAM MIDDLE SCHOOL	5/24/2024
GIGI DE GUZMAN	SCIENCE	ODESSA HIGH SCHOOL	5/24/2024
GABRIEL DOLLA	ENGLISH	ODESSA HIGH SCHOOL	5/24/2024
RAGHAVENDRA DORAPUDI	MATH	ODESSA HIGH SCHOOL	5/24/2024
MICHAEL DURAN	WELDING	ADVANCED TECHNICAL CENTER	5/24/2024
BRANDIE ELAM	SECONDARY SPED INC/RES	CROCKETT MIDDLE SCHOOL	5/24/2024
JEFFREY ELLSWORTH	HEALTH	BOWIE MIDDLE SCHOOL	5/24/2024
STEPHANIE EVANS	SECONDARY READ/DYSLEXIA INT	WILSON & YOUNG MIDDLE SCHOOL	5/24/2024
GEORGINA FIGUEROA	ENGLISH	GEORGE HW BUSH NEW TECH ODESSA	5/24/2024
JOE FLORES	SOCIAL STDY-COACH	ODESSA HIGH SCHOOL	5/24/2024
RICHARD FOX	SCIENCE	ODESSA HIGH SCHOOL	5/24/2024
PACY GOMEZ	BUSINESS/COACH	PERMIAN HIGH SCHOOL	5/24/2024
KRISTAL GONZALES	ENGLISH/LANGUAGE ARTS/READING	BONHAM MIDDLE SCHOOL	5/24/2024
TARI GRAY	SECONDARY SPED INC/RES	NIMITZ MIDDLE SCHOOL	5/24/2024
MICAELA GRENIER	THEATRE ARTS - HS DIRECTOR	PERMIAN HIGH SCHOOL	5/24/2024
JENNI HAMBY	ENGLISH/LANGUAGE ARTS/READING	BONHAM MIDDLE SCHOOL	5/24/2024
SYLVESTER HATTEN	PE-COACH	ODESSA HIGH SCHOOL	5/24/2024
PRISCILLA HERNANDEZ	ART	CROCKETT MIDDLE SCHOOL	5/24/2024
JAME HEUMAN	SECONDARY SPED INC/RES	ODESSA HIGH SCHOOL	5/24/2024
JORDAN JEWELL	FAMILY/CNSUM SCI	ADVANCED TECHNICAL CENTER	5/24/2024
DAVID LACKEY	SECONDARY SP ED - BEHAV SUPP	SPECIAL EDUCATION	5/24/2024
ALYSSA LIWAG	SCIENCE	CROCKETT MIDDLE SCHOOL	5/24/2024
LILIANA LOPEZ	MATH	CROCKETT MIDDLE SCHOOL	5/24/2024
JOAN RAMON LOPEZ-GILLUE	MATH	CROCKETT MIDDLE SCHOOL	5/24/2024
BALA RAJU MADANU	ENGLISH	ODESSA HIGH SCHOOL	5/24/2024
USHARANI MALLAVARAPU	SCIENCE	PERMIAN HIGH SCHOOL	5/24/2024
SANTHI MANDAPATI	ENGLISH	PERMIAN HIGH SCHOOL	5/24/2024
TABATHA MARTIN	HEALTH-SCIENCE TECH	ADVANCED TECHNICAL CENTER	5/24/2024
GENESIS MARTINEZ MORALES	ENGLISH/LANGUAGE ARTS/READING	NIMITZ MIDDLE SCHOOL	5/24/2024
JAMES MATHAI	SCIENCE	PERMIAN HIGH SCHOOL	5/24/2024
MIQUON MAYES	SOCIAL STDY-COACH	PERMIAN HIGH SCHOOL	5/24/2024

DERRICK MAYWEATHER	BUSINESS/COACH	ODESSA HIGH SCHOOL	5/24/2024
GAYLA MCMURRIAN	BUSINESS/COACH	PERMIAN HIGH SCHOOL	5/24/2024
LISA MELTON	CHOIR ASST - HS	PERMIAN HIGH SCHOOL	5/24/2024
ERIC MONTGOMERY	BAND DIR-ASST	ODESSA HIGH SCHOOL	5/30/2024
MOHANA MULLAPUDI	MATH	ODESSA HIGH SCHOOL	5/24/2024
SYED NAQVI	SCIENCE	ODESSA HIGH SCHOOL	5/24/2024
OXSANA NIETO	ENGLISH/LANGUAGE ARTS/READING	NIMITZ MIDDLE SCHOOL	5/24/2024
JAMES NORTON	DPT HD/SOCL STDY	CROCKETT MIDDLE SCHOOL	5/24/2024
YVONNE ODEN	PHYSICAL ED	CROCKETT MIDDLE SCHOOL	5/24/2024
JIMMY OLAGUE	BAND DIR-ASST	ODESSA HIGH SCHOOL	5/24/2024
REBECCA OWENS	SP ED / DPT HD	BONHAM MIDDLE SCHOOL	5/24/2024
CHARLES PACHIMALA	ENGLISH/LANGUAGE ARTS/READING	PERMIAN HIGH SCHOOL	5/24/2024
CALEB PADILLA	SPANISH	WILSON & YOUNG MIDDLE SCHOOL	5/24/2024
SOUJANYA PARUPALLI	MATH	ODESSA HIGH SCHOOL	5/24/2024
BRYAN PEARCE	SOCIAL STUDIES	WILSON & YOUNG MIDDLE SCHOOL	5/24/2024
AILEEN PITT	SOCIAL STUDIES	PERMIAN HIGH SCHOOL	5/24/2024
RONALD RAMIREZ	BUSINESS EDUCATION	PERMIAN HIGH SCHOOL	5/24/2024
REBECCA RANEY	ART	CROCKETT MIDDLE SCHOOL	5/24/2024
SAMANTHA RASCON	MATH	BONHAM MIDDLE SCHOOL	5/24/2024
VALENTINA RIVERA	AVID TEACH-SECONDARY	GEORGE HW BUSH NEW TECH ODESSA	5/24/2024
NAAMAN ROBERSON	PE-COACH	CROCKETT MIDDLE SCHOOL	5/24/2024
MILTON RODRIGUEZ PINZON	ESL/ENGLISH	ODESSA HIGH SCHOOL	5/24/2024
PETER ROJAHN	SOCIAL STUDIES	BOWIE MIDDLE SCHOOL	5/24/2024
MELISSA ROTH	ENGLISH	ODESSA HIGH SCHOOL	5/24/2024
MADHUMITA SAMAYAMANTHULA	SCIENCE	ODESSA HIGH SCHOOL	5/24/2024
LYNDA SCHROER	SECONDARY TEAM REACH TEACHER	BOWIE MIDDLE SCHOOL	5/24/2024
SUZONNE SHIPLEY	CHOIR DIRECTOR -MS	WILSON & YOUNG MIDDLE SCHOOL	5/24/2024
TAMARA SMITH-HUMPHRIES	SECONDARY TEAM REACH TEACHER	CROCKETT MIDDLE SCHOOL	5/24/2024
LORENA SOTELO	BUSINESS EDUCATION	PERMIAN HIGH SCHOOL	5/24/2024
DANIEL THOMAS	MATH	PERMIAN HIGH SCHOOL	5/24/2024
DARLENE THOMAS	SOCIAL STUDIES	WILSON & YOUNG MIDDLE SCHOOL	5/24/2024
ARIEL THURBER	DIGITAL GRAPHICS/ILL	GEORGE HW BUSH NEW TECH ODESSA	5/24/2024
MIA TREVI	SOCIAL STUDIES	BOWIE MIDDLE SCHOOL	5/24/2024
ANDREA WALKER	TOUCH SYSTEMS	WILSON & YOUNG MIDDLE SCHOOL	5/24/2024
ARWEN WEAKS	ORCHESTRA ASST - HS	PERMIAN HIGH SCHOOL	5/24/2024
AMY WIESE	ENGLISH/LANGUAGE ARTS/READING	WILSON & YOUNG MIDDLE SCHOOL	5/24/2024
ELIZABETH WILBANKS	SCIENCE	PERMIAN HIGH SCHOOL	5/24/2024
CATHERINE WILLIAMS	ENGLISH	PERMIAN HIGH SCHOOL	5/24/2024
TRICIA WILLIAMS	SECONDARY SPED INC/RES	WILSON & YOUNG MIDDLE SCHOOL	5/24/2024
CLAYTON WILLMAN	SCIENCE-COACH	PERMIAN HIGH SCHOOL	5/24/2024
ELEONORA WITZKY	SCIENCE	NIMITZ MIDDLE SCHOOL	5/24/2024
VENKATA RAMA DEVI YELAMANCHILI	SCIENCE	PERMIAN HIGH SCHOOL	5/24/2024
JACKIE LAWRENCE	INTERVENTIONIST	ALTERNATIVE CENTER	5/24/2024
DAMIAN GAYTAN	MATH	GEORGE HW BUSH NEW TECH ODESSA	5/24/2024
ERIK ACOSTA	SCIENCE	BONHAM MIDDLE SCHOOL	5/24/2024
HAMZA KISAC	ENGLISH/LANGUAGE ARTS/READING	BONHAM MIDDLE SCHOOL	5/24/2024
RAISSA JARA RENACIA	SECONDARY TEAM REACH TEACHER	BONHAM MIDDLE SCHOOL	5/24/2024

ALTA STRIGGLES-LEE	BAND DIRECTOR	BOWIE MIDDLE SCHOOL	5/24/2024
JANET THOMPSON	SOCIAL STUDIES	BOWIE MIDDLE SCHOOL	5/24/2024
JUSTEN CAMPBELL	PE-COACH	NIMITZ MIDDLE SCHOOL	5/24/2024
DEREK FLETCHER	CHOIR DIRECTOR -MS	NIMITZ MIDDLE SCHOOL	5/24/2024
ARIANA LICON	SCIENCE	NIMITZ MIDDLE SCHOOL	5/24/2024
MATIAS PATINO	PHYSICAL ED	NIMITZ MIDDLE SCHOOL	5/24/2024
BRANDY VALDEZ	SCIENCE	NIMITZ MIDDLE SCHOOL	5/24/2024
BILLIE FOSTER	MATH	CROCKETT MIDDLE SCHOOL	5/24/2024
JONATHAN ORTIZ	BAND DIR - ASST	WILSON & YOUNG MIDDLE SCHOOL	5/24/2024
KENNETH WALKER	PE-COACH	WILSON & YOUNG MIDDLE SCHOOL	5/24/2024
DESIREE STEPHENSON	MATH/COACH	PERMIAN HIGH SCHOOL	5/24/2024
ASHLEY DEBUSK	SPED-SC	ODESSA HIGH SCHOOL	5/24/2024
ROSA PATINO	PE	NIMITZ MIDDLE SCHOOL	5/24/2024
KARINA CONTINAS-VILLES	ENGLISH/LANGUAGE ARTS/READING	WILSON & YOUNG MIDDLE SCHOOL	5/24/2024
PRICILLA THORNTON	BAND DIR - ASST	BOWIE MIDDLE SCHOOL	5/27/2024
AUSTIN TREVINO	SPEECH	PERMIAN HIGH SCHOOL	5/24/2024
RAQUEL FORD	SOCIAL STUDIES/COACH	CROCKETT MIDDLE SCHOOL	5/24/2024
MARJENIQUE BRUTON	THEATER ARTS	ODESSA HIGH SCHOOL	5/24/2024
SHANE EIDSON	ENGLISH	PERMIAN HIGH SCHOOL	5/24/2024
STEPHANIE BURTON	CHOIR ASST-HS	ODESSA HIGH SCHOOL	5/24/2024
HALEY MARINOVICH	ENGLISH	OCA	5/24/2024
JANICE HYATT	INST COACH	OCTECH	5/24/2024
ANGELA JACKSON	SPEC ASSIGNMENT	PERMIAN HIGH SCHOOL	5/24/2024

Administrative Level Resignations

NAME	JOB CLASS	CAMPUS	EFFECTIVE DATE
DOLORES BICKLE	COUNSLR-SEC-REG	WILSON & YOUNG MIDDLE SCHOOL	5/31/2024
NAN BOWEN	SECONDARY INSTRUCTIONAL COACH	CROCKETT MIDDLE SCHOOL	5/24/2024
AMY GARCIA	COUNSLR-SEC-REG	CROCKETT MIDDLE SCHOOL	5/31/2024

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
Odessa, Texas

MEMORANDUM

TO: Dr. Scott Muri, Superintendent of Schools
 FROM: Dr. Anthony Sorola, Associate Superintendent
 RE: Information Report for June 2024
 DATE: 6/18/2024

ADDED ADMINISTRATIVE PROFESSIONAL AND STIPEND/SUPPLEMENTAL PAY PLAN		
POSITION/GROUP	DUTIES PERFORMED/DAYS	STIPEND/PAY GRADE
Clerical Support - Specialist - Policy/Procedure/Records	Administrative Asistant to Leadership Department	Clerical Support Pay Grade 9
C&I Summer Learning Supplemental Pay	Speech Language Pathologist - Assistant	\$360/day
C&I Summer Learning Supplemental Pay	School Pyschologist-Intern	\$360/day
C&I Summer Learning Supplemental Pay	CCMR/TSIA Summer Tutoring	\$180/half Day

RECLASSIFIED ADMINISTRATIVE PROFESSIONAL AND STIPEND/SUPPLEMENTAL PAY PLAN		
POSITION/GROUP	DUTIES PERFORMED/DAYS	STIPEND/PAY GRADE
Travel Stipend - Director of Transportation	Travel Stipend	Change from \$4,400 to \$7,500
Administrative Professional - Executive Director - Special Services	Executive Director Special Services	Change from AP PG 9 to AP PG 10
Human Resources/Talent Development	LEAP A-ILT/ATLA/Novice Teachers	\$40 per hour per approval by TD

REMOVED ADMINISTRATIVE PROFESSIONAL AND STIPEND/SUPPLEMENTAL PAY PLAN		
POSITION/GROUP	DUTIES PERFORMED/DAYS	STIPEND/PAY GRADE