



Agenda of Regular Meeting

The Board of Trustees Belton Independent School District

A Regular Meeting of the Board of Trustees of Belton Independent School District will be held November 14, 2022, beginning at 6:15 PM in the Pittenger Fine Arts Center, 400 N. Wall Street, Belton, TX 76513. One or more trustees may participate via video conference.

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

- 1. Call to Order, Moment of Silence and Pledge of Allegiance**
- 2. Recognitions** **4**
 - A. Student Showcase - Advanced Treble Choir from Belton Middle School
 - B. College Board National Recognition Awards
 - C. Mark of Excellence/National Jazz Honors Competition Commended Winner & Outstanding Soloists
 - D. Temple Rotary Educator of the Month
 - E. Department Showcase - Teaching & Learning
- 3. Public Comments Regarding Items on the Agenda**
- 4. Journey of a Graduate - Communication** **7**
- 5. Action Items**
 - A. Consider, Discuss, and Take Appropriate Action Regarding the Naming of Elementary School #12 **8**
 - B. Consider, Discuss, and Take Appropriate Action Regarding the Naming of Elementary School #13 **9**
- 6. Reports**

A. Bilingual/English as a Second Language (ESL) Programs Annual Report	10
B. Facilities Committee Report	
C. Policy Committee Report	
D. Superintendent's Report	22
7. Consent Agenda: Consider and Take Appropriate Action	
A. Minutes of Previous Meetings:	
1. October 3, 2022 Policy Committee Meeting	26
2. October 4, 2022 Special Meeting	29
3. October 11, 2022 Facilities Committee Meeting	30
4. October 17, 2022 Workshop Meeting	32
5. October 17, 2022 Regular Meeting	34
B. Unaudited Financial Report for the Month Ending October 31, 2022	42
C. Gifts, Grants, and Bequests	60
D. Budget Amendment #2 for 2022-2023	62
E. Expenditures over \$50,000	64
1. Apple for Staff Device Refresh	
F. Supply, Equipment, and Service Bids	
1. RFP #2209-775-291 for Refrigerated Delivery Truck	65
2. RFP #2208-175-290 for Awards, Trophies, Plaques and Related Items (Supplemental I)	67
G. Acceptance and Close Out of the Lake Belton High School Construction Project and Approval of Final Payment	69
H. Contract with American Constructors for Construction Manager at-Risk Services for Elementary School #13	70
I. Contract with CORE Construction for Construction Manager at-Risk Services for the 2022 Building Program for the Following Bond Projects:	98
1. Belton High School Additions and Renovations	
2. Southwest Elementary School Additions	
3. Lake Belton Middle School Additions	

J. Additions/Revisions/Deletions of (LOCAL) Policies Resulting from the Policy Review Sessions Conducted on March 8, 2022 with Drafts Prepared by TASB Policy Service - 2nd Reading	183
1. DEE(LOCAL): Compensation and Benefits - Expense Reimbursement	
2. EHBAF(LOCAL): Special Education - Video/Audio Monitoring	
3. FJ(LOCAL): Student Fundraising	
K. Revisions to FDA(LOCAL): Admissions, Interdistrict Transfers - 2nd Reading	192
L. Revisions to FDB(LOCAL): Admissions, Intradistrict Transfers and Classroom Assignments - 2nd Reading	198
M. Additional Certified T-TESS Appraisers for 2022-2023	203
8. Board Requests for New Information and/or Reports	
9. Calendar of Events	205
10. Public Comments Regarding Non-Agenda Items	
11. Closed Session (Texas Government Code, Subchapters D and E)	
A. Deliberations about Real Property - Texas Government Code, Section 551.072	
B. Deliberation Regarding Matters Whereby Personally Identifiable Information Regarding One or More Students will be Disclosed - Texas Government Code, Section 551.0821	
C. Security - Texas Government Code, Section 551.076	
D. Personnel - Texas Government Code, Section 551.074	
12. Reconvene in Open Session	
13. Adjourn	

Belton Independent School District
Board of Trustee Meeting Agenda Item
November 14, 2022

Item: Recognitions

Contact Person: Jennifer Bailey

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 2: Ensure exceptional learning experiences for each and every student.

Goal 4: Develop a district-wide culture of value, support, and growth amongst all students and staff.

Background Information:

Student Showcase — Advanced Treble Choir from Belton Middle School

The Advanced Treble Choir from Belton Middle School is under the direction of Joy Marshall and includes 18 talented seventh- and eighth-grade students. The group earned Superior ratings on their solo contest performance last spring, and two of the members were selected for the Texas Choral Directors Association All-State Choir and three members were selected for the TMEA Region 8 All-Region Choir in 2022.

Tonight the choir performed “Harmony,” by Pinkzebra, “Heart We Will Forget Him,” by Farnell, and “Sisi Ni Moja” by Naverud.

Members of the group are Isabel Billings, Gabrielle Blizzard, Moira Correa, Roxanna Delgado, Kiaya Fallwell, Jaymisen Garelick, Ella Hice, Elianna John, Melissa Jordan, Kimora Kelly, Gisella MacDonald, Bella Majano, Olivia McRae, Alyssa Merrill, Eva Rios, Kira Trevino, Payten Troast, Nataly Valdez and Amber Young. Lauren Coltharp is serving as a student teacher this semester.

College Board National Recognition Awards

Nine Belton ISD students have earned national academic honors from College Board for top performances on the Preliminary SAT (PSAT). The students were among the top 2.5 percent of test takers who identified as one or more of the following: African American, Hispanic or Latinx, Indigenous or attend school in a rural area or are from a small town.

National Hispanic Recognition Awards were presented to Rhiannon Gaddis, Jayden Guajardo, Josue Martinez and Dalilah Zuniga from Lake Belton High School and Matthew Herrera, Audriana Martinez and Diego Ramos from Belton High School. National Indigenous Recognition Awards were presented to Isaiah Devasure from BHS and

Hayden Presley from LBHS. To qualify for the recognition, the students had to achieve a minimum PSAT score and a cumulative GPA of 3.5 or higher.

Congratulations to these students who have demonstrated many of our Journey of a Graduate competencies, including critical thinking and perseverance, to earn this recognition.

Mark of Excellence/National Jazz Honors Competition Commended Winner & Outstanding Soloists — Lake Belton Middle School Jazz Band

The Lake Belton Middle School jazz band is celebrating after being named a Commended Winner in the Mark of Excellence/National Jazz Honors Competition.

Assistant band director Jacob Guerrero compiled recordings of the group's best performances last year and submitted them for the contest. The competition recognizes outstanding achievement in performance by high school and middle school bands, choirs and orchestras from throughout the United States. The top 25% of entrants are recognized as National Winners. The second 25% are named Commended Winners.

Two students also received "Outstanding Soloist" recognitions — Jordan Hamilton on trombone and Christopher Clement on alto saxophone.

Members of last year's jazz band included: Keagan Barnett, Avery Diaz, William Graham, Hunter Maher, Keller Myers and Gabe Vacula (trumpet); Christopher Clement (alto saxophone); Naomi Hwang (tenor saxophone); Olivia Cromwell, Beckett Echols, Asher Hansgen and Ben Johnson (drums); Noah Lanham and Jacob Mccready (French horn); Evan Lazott (piano); Evan Abell and Felix Peterson (bass guitar); Macy Fowler (guitar); Alex Smith, Rylan Parr, Drew Moore, Jordan Hamilton and Sienna Trehern (trombone); and Major Arant, Andy Thomas, Brock Winkler and John Flor (tuba).

The recognition highlights the district's value of a continuous improvement mindset modeled by staff and cultivated in classrooms.

Temple Rotary Educator of the Month

Marla York is being recognized by the Temple Rotary Club for her outstanding service to Belton ISD. Marla serves as an eighth-grade social studies teacher at North Belton Middle School. She is in her 24th year in education and her 19th year in Belton ISD.

The principal at NBMS said this about Mrs. York: "Marla goes above and beyond. She does a fabulous job at teaching history to her students, supporting them in after-school extracurricular activities, and holding high standards for their academic performance. North Belton Middle School is thankful for her dedicated service to each and every student. I am honored that she is selected for this award and that she represents the NBMS community."

Congratulations to the student-centered educator!

Department Showcase — Teaching & Learning

The Teaching & Learning department is led by Dr. Deanna Lovesmith, assistant superintendent for Teaching & Learning. The department provides instructional support and professional learning in core academic areas, as well as the oversight of programs for students who are: homeless or in foster care, English learners, gifted and talented, advanced academics, Career and Technology education, and students served through 504 and special education programs. In addition to providing instructional support for campuses, the department also oversees areas of school accountability, assessment and data, professional learning, curriculum revision and resources and counseling services. The goal of the department is to support campuses in providing exceptional learning experiences for students. Thank you to these employees for their dedication and commitment to exceptional learning for students.

Fiscal Implications:

n/a

Administrative Recommendation(s):

n/a

JOURNEY OF A GRADUATE



Belton Independent School District
Board of Trustee Meeting Agenda Item

November 14, 2022

Item: Consider, Discuss, and Take Appropriate Action Regarding the Naming of Elementary School #12

Contact Person: Michael Morgan

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 1: Strengthen and support the engagement of all stakeholders in the pursuit of the BISD vision.

Background Information:

CW(LOCAL) is the Board Policy establishing guidelines for naming or renaming of new or existing District-owned facilities or portions of facilities. In accordance with CW(LOCAL), nominations for Elementary School #12 were requested and received from the BISD Community through October 15, 2022. Once the nomination deadline passed, submissions were gathered and a School Name Selection Committee was established. The 12-member committee included community members, parents, students and District staff. The Committee met to review the name submissions and to determine name recommendations to bring to the Board of Trustees.

Fiscal Implications:

None at this time.

Administrative Recommendation(s):

Consider the recommendations and select and approve the name for Elementary School #12.

Belton Independent School District
Board of Trustee Meeting Agenda Item

November 14, 2022

Item: Consider, Discuss, and Take Appropriate Action Regarding the Naming of Elementary School #13

Contact Person: Michael Morgan

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 1: Strengthen and support the engagement of all stakeholders in the pursuit of the BISD vision.

Background Information:

CW(LOCAL) is the Board Policy establishing guidelines for naming or renaming of new or existing District-owned facilities or portions of facilities. In accordance with CW(LOCAL), nominations for Elementary School #13 were requested and received from the BISD Community through October 15, 2022. Once the nomination deadline passed, submissions were gathered and a School Name Selection Committee was established. The 12-member committee included community members, parents, students and District staff. The Committee met to review the name submissions and to determine name recommendations to bring to the Board of Trustees.

Fiscal Implications:

None at this time.

Administrative Recommendation(s):

Consider the recommendations and select and approve the name for Elementary School #13.

Belton ISD
Bilingual/English as a Second
Language (ESL) Programs
Annual Report

November 14, 2022



Report the annual evaluation of our bilingual and ESL programs, including student performance, staffing and professional learning. (Texas Education Code 29.053)

- Description of Program
 - Program Models
 - Program Scope
 - Staffing
- Performance Data
- Instructional Focus
- Professional Learning



Bilingual

- Dual Language Immersion One-Way - students identified as English learners are solely the students in the classroom. The teacher is bilingual certified.
 - PK-4th grade
 - Total Enrollment - 204 Students
 - Belton Early Childhood School, Southwest, Charter Oak, & Chisholm Trail
- Dual Language Immersion Two-Way - students identified as English learners are integrated with students proficient in English. The teacher is bilingual certified.
 - PK-1st grade
 - Total Enrollment - 130 students
 - Belton Early Childhood School, Charter Oak, & Chisholm Trail
- Transitional Early Exit
 - 5th grade
 - Total Enrollment - 53 students
 - Southwest, Charter Oak, & Chisholm Trail

386

Students in
Bilingual
Programs

English as a second language (ESL)

- Content-based ESL - all core content teachers are ESL certified and students are served in general education classes
- Pull-out ESL - at minimum the ELAR teacher is certified and students are served in general education classes
 - PK-12th
 - Total Enrollment - 543 students
 - All campuses



Native Languages Other than English in Belton ISD

2021-2022: 20 reported languages

Current 2022-2023: 29 reported languages

1. English (161)
2. Spanish (697)
3. Korean (11)
4. Urdu (9)
5. Vietnamese (9)



29

Total
Languages
Spoken

Program Scope

School Year	Emergent Bilinguals (EB) Population	% of Total Enrollment
2022-2023	897	6.57%
2021-2022	832	6.25%
2020-2021	747	5.90%
2019-2020	748	6.14%
2018-2019	759	6.39%

Dual Language Cohorts

PreK-3rd Dual Language Classes

- 2 Two-way, 1 One-way
- 61 students
 - 47 Identified EB students
 - 14 English proficient students

Kindergarten-5th Dual Language Classes

- 3 Two-way, 2 One-way
- 67 students
 - 52 Identified EB Students
 - 15 English proficient students

1st-5th Dual Language Classes

- 3 Two-way, 2 One-way
- 80 students
 - 53 Identified EB students
 - 27 English proficient students

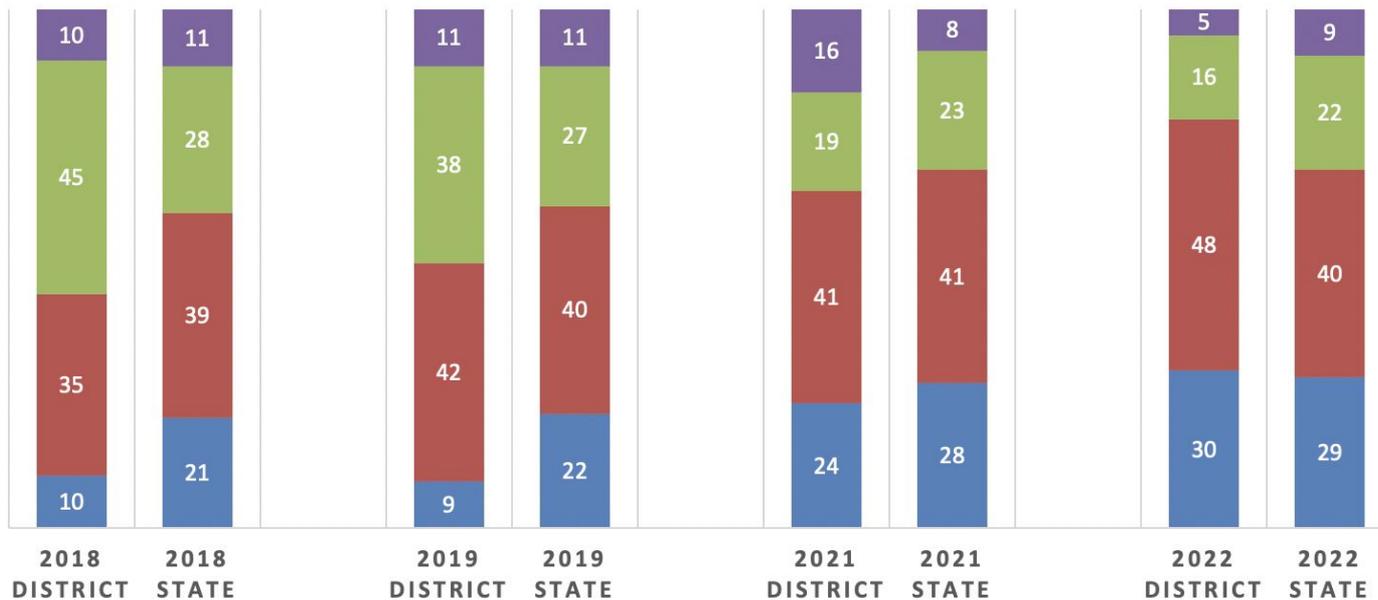


Exceptions/Waivers

	Number of Certified Staff (District-Wide)	Number of Certified Teachers in Positions Directly Serving EBs	Number of Exceptions/Waivers (2022-2023 SY)	Number of Exceptions/Waivers (2021-2022 SY)
Bilingual Exceptions	29	19	4	6
ESL Waiver	300	110	36 16 Elementary 20 Secondary	34 19 Elementary 15 Secondary

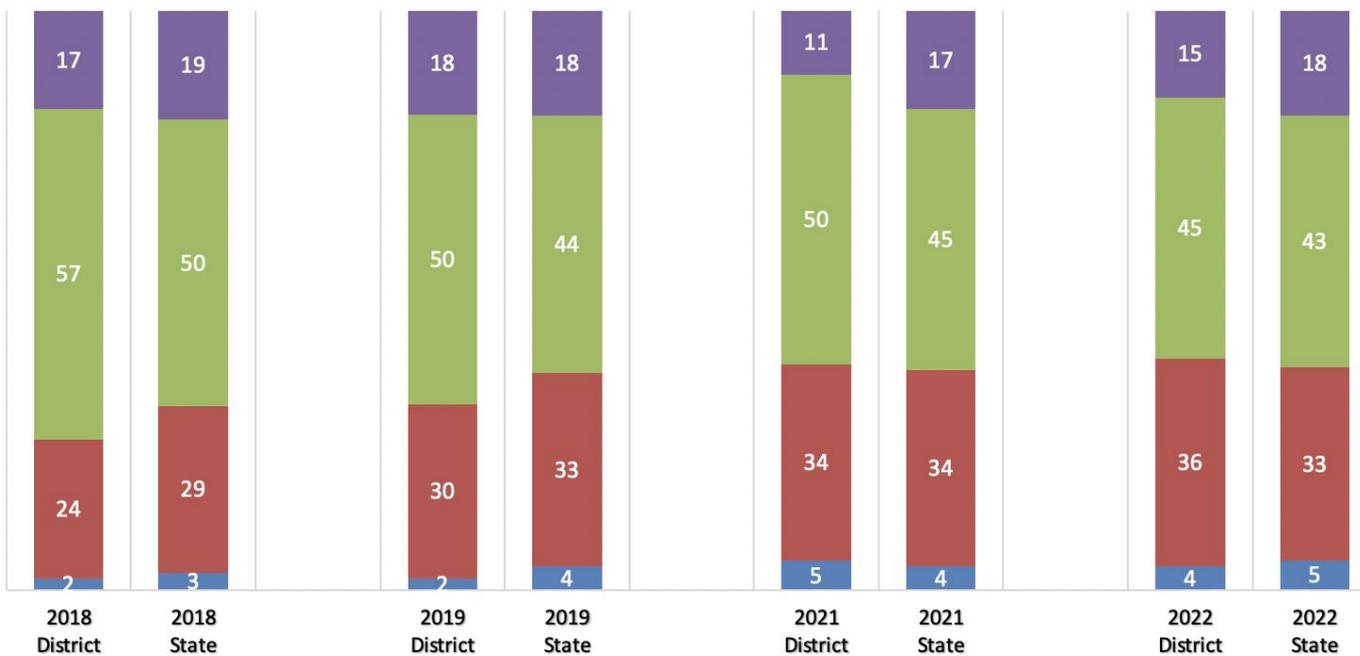
GRADE K-2 TELPAS COMPOSITE RATINGS OVER TIME (DISTRICT/STATE)

■ Beginning ■ Intermediate ■ Advanced ■ Advanced High



GRADE 3-12 TELPAS COMPOSITE RATINGS OVER TIME (DISTRICT/STATE)

■ Beginning ■ Intermediate ■ Advanced ■ Advanced High



All Dual Language Teachers participate in district-wide professional learning including:

- Structured Conversations
- Cooperative Learning Structures
- Dictado

Other learning opportunities:

- Content-based learning
- EL Achieve: 2 year professional learning @ South Belton Middle School. The learning provides an accelerated approach to instruction that emphasizes both academic English and critical literacy skills.
- 2 day Cooperative structures (Kagan) to boost engagement and learning for all students
- Ellevation strategies to increase language acquisition
- Best practices using Nearpod with emergent bilingual students



**Inspiring Dreams.
Empowering Futures.**



Superintendent's Report

***BISD Board of Trustees' Meeting
Monday, November 14, 2022***

Purpose

Provide the Board of Trustees with administrative information from the Superintendent.

Highlights

- Campus Visits with Board Members
- Guest Speaker - Belton HS
- FFA Leader Development Events Judge - Public Relations
- Roy & Jean Potts Swim Invitational
- BHS Madrigal Concert
- MJROTC Birthday Ball Ceremony
- District Safety & Security Committee
- Future Ready Superintendents' Leadership Network - San Antonio



A photograph of a teacher and several students in a school hallway. They are gathered around a long wooden table on the floor, working on a project. The teacher, a woman in a purple shirt and striped pants, is leaning over the table, looking at a laptop. The students, mostly girls, are sitting on the floor around the table, some looking at papers and others at the laptop. The hallway has lockers on the left and a door on the right. The image is overlaid with a semi-transparent white filter.

Questions?

Inspiring Dreams. Empowering Futures.

**BELTON I.S.D. BOARD OF TRUSTEES
POLICY COMMITTEE MINUTES
OCTOBER 3, 2022**

Members Present:

Chair Manuel Alcozer Chris Flor Janet Leigh

Staff Present:

Dr. Matt Smith Dr. Malinda Golden Michael Morgan Dr. Deanna Lovesmith
Melissa Lafferty Todd Schiller Shad McGaha Gabi Nino
Arturo Lomeli Connie Burns

Also Present: Holly Wardell, Legal Counsel

Call to Order: The meeting was called to order at 5:00 PM.

Public Comments: None.

Review and Discuss the Following Items:

A. Board Operating Procedures

Dr. Smith went through the document seeking input from the committee. Recommended substantive changes included the following:

- Change “place” to “area” in the Board Elections or Appointments section;
- Superintendent and Legal Counsel will work on language in Selection of Board Officers section and ensure it’s compatible with the duties outlined in BDAA(LOCAL) as requested by Mr. Alcozer;
- Add a note under the Meeting Minutes section to allow for more time if extenuating circumstances exist that delay presentation of minutes for approval;
- Delete the first bullet under Board Committees as it’s not needed and doesn’t pertain to special committees;
- Revise Communication section to change introductory question and add clarity;

Dr. Smith mentioned that he would be interested in adding a budget committee of the Board, similar to the policy and facilities committees. Following discussion, he indicated he will work with Ms. Wardell to modify the operating procedures and present again at the next meeting.

B. Texas Association of School Board’s Initiated Localized Policy Update 119 – 1st Reading

- 1. EHBB(LOCAL): Special Program – Gifted and Talented Students**
- 2. FFBA(LOCAL): Crisis Intervention – Trauma-Informed Care**
- 3. FFH(LOCAL): Student Welfare – Freedom from Discrimination, Harassment, and Retaliation**

Dr. Smith explained these are the remaining LOCAL policies included in TASB’s Update 119. He asked if any Board members had questions, and cabinet members were present to address any specific questions.

Mr. Flor asked who are “other interested persons” identified in EHBB(LOCAL), and Dr. Deanna Lovesmith stated examples could be a principal or GT coordinator.

With regard to FFBA(LOCAL), Dr. Lovesmith explained DMA(LOCAL) now requires the Board to approve a professional development plan with very specific categories. That plan will be presented for consideration at the October 17 Board meeting.

Mike Morgan clarified changes to FFH(LOCAL) in response to a question about prohibited harrasment by Ms. Leigh. Though it won't change the meaning, Mr. Flor commented about the desire for consistency by listing dating violence as an example on page 2 of 10 in this policy.

Dr. Smith indicated these policies will move forward to the regular Board meeting on October 17 for a 2nd reading.

C. TASB Policy Review Local Policy to Address – 1st Reading

- 1. BDAA(LOCAL): Officers and Officials - Duties and Requirements of Board Officers**
- 2. CQ(LOCAL): Technology Resources**
- 3. DNA(LOCAL): Performance Appraisal - Evaluation of Teachers**
- 4. EB(LOCAL): School Year**
- 5. FNAA(LOCAL): Student Expression - Distribution of Nonschool Literature**

Dr. Smith introduced this item and asked if there were any questions on the policies. Cabinet members were present to address specific questions.

Todd Schiller explained that the criteria for teachers receiving a less than annual observation has been added to DNA(LOCAL) which aligns the policy to current practice. The exception is to the 45-minute observation. Every teacher will have an annual summative evaluation at the end of the year and there is always a classroom walk-through. Dr. Smith stated this is geared toward ongoing conversations with teachers about growth and support instead, with goal setting, support, professional learning and feedback on a regular basis.

Mr. Flor asked about the change from 10 copies to 30 copies in FNAA(LOCAL) and Mr. Morgan explained the change would rule out things like distribution of birthday cards. Anything outside of 30 is considered mass distribution and will require approval, and Ms. Wardell explained that 30 is larger than a class size. Mr. Morgan added the intent is to not have students handing out fliers unless they've been vetted prior, but not to prevent students from handing out classroom valentines or invitations.

Dr. Smith indicated these policy revisions will be forwarded to the Board for a 2nd reading at the October 17 regular meeting.

D. Legislative Priorities

Dr. Smith presented a draft of legislative priorities last revised in June and asked for any additional feedback. He stated that he will meet with legislators soon, with a goal of presenting the priorities for consideration at an upcoming Board meeting. Following review and discussion, the following changes were suggested:

- Add a bullet to the first section opposing vouchers and to clearly articulate the ramifications of vouchers to public schools and the financing system;

- Add a bullet to the second section to add accountability for charter schools to level the playing field; and
- In the last section, elaborate on items 1 and 4 to more clearly state objections and talk about the ramifications, articulate 4.

Ms. Leigh commented that lawmakers need to understand the ramifications to laws they are imposing. Mr. Flor noted that keeping the May election date helped save taxpayers millions of dollars due to the volatility of interest rates.

Issues/Concerns for Future Agenda or Administrative Reports:

Mr. Flor stated he would like to more clearly understand the social media policy for staff and students.

Adjournment: There being no further business, the meeting adjourned at 6:07 PM.

Next Meeting: October 31, 2022, 5:00 PM

**BELTON INDEPENDENT SCHOOL DISTRICT
SPECIAL BOARD MEETING MINUTES
October 4, 2022 – 5:00 p.m.
Bronco Room**

BOARD MEMBERS PRESENT

Jeff Norwood
Ty Taggart
Manuel Alcozer
Suzanne M. McDonald
Janet Leigh
Chris Flor
Erin Bass

BOARD MEMBERS ABSENT

CALL TO ORDER

Jeff Norwood, Board President, called the special meeting of the Belton Independent School District Board of Trustees to order at 5:01 p.m. He stated that a quorum of Board Members was present, that the meeting had been duly called, and that notice of the meeting had been posted in accordance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

PUBLIC COMMENTS

None

At 5:01 p.m., Mr. Norwood announced that the Board would go into closed session under the authority of Texas Government Code Sections 551.074 and 551.071 for the purposes of hearing a parent complaint against employees and consulting with its attorney regarding the complaint.

CLOSED SESSION (TEXAS GOVERNMENT CODE, SUBCHAPTERS D AND E)

- Level III Parent FNG Grievance against Employees – Texas Government Code, Section 551.074; 551.071

RECONVENE IN OPEN SESSION AND TAKE ACTION, IF ANY, ON ITEMS DISCUSSED IN CLOSED SESSION

At 6:34 p.m. the Board reconvened in open session. Mr. Norwood indicated the Board did not take any vote or other action in closed meeting and has heard the complaint of Ms. Amanda Kelley.

Ty Taggart made a motion that the Board affirm the Level II grievance decision by the administration. The motion was seconded by Janet Leigh and carried unanimously (7-0).

CONSIDER, DISCUSS, AND TAKE APPROPRIATE ACTION REGARDING THE

ADJOURN

There being no further business, the meeting was adjourned at 6:35 p.m.

Jeff Norwood, President

Manuel Alcozer, Secretary

**BELTON ISD BOARD OF TRUSTEES
FACILITIES COMMITTEE MINUTES
OCTOBER 11, 2022**

Members Present:

Ty Taggart, Chair Suzanne M. McDonald Erin Bass

Members Absent: None.

Staff Present:

Dr. Matt Smith	Mike Morgan	Malinda Golden	Stephanie Ferguson
David Bennett	Keith Cook	Steve Berry	Andrew Forrester
Connie Burns			

Call to Order: The meeting was called to order at 5:00 PM.

Public Comments: None.

Review and Discuss the Following Items:

A. Fall Preliminary Demographer Report

Bob Templeton, Zonda Education, gave an update of the Belton-Temple economy and housing market, and anticipated future housing development in the District, to include 10-year forecasts for all grade levels and each campus (in moderate and high growth forecast levels).

Key takeaways included the following:

- Enrollment trends are returning to “pre-pandemic levels
- Interest rates are impacting home sales
- Spring 2023 will be key season to see how buyers respond to higher interest rates
- Five year enrollment is headed toward 15,500 students
- Ten year enrollment could top 17,300 students
- New elementary schools need to support current enrollment at Chisholm Trail and Tarver elementary schools

Mike Morgan, Assistant Superintendent of Operations, touched on student transfers, noting that the geocoding number is generally a little higher than the transfer approval rate, with over 60% of transfers for children of employees.

This report will be presented to the full Board at the meeting on October 17.

B. Attendance Zone Process

Mr. Morgan gave an overview of the upcoming attendance zone process. He indicated there will be three opportunities for feedback from the facilities committee and two for feedback from the Board before a recommendation is made. There will also be various opportunities from the community throughout the process. Mr. Morgan touched on some parameters to be considered during the process, which include neighborhood unity, feeder pattern alignment, family impact, socioeconomic factors, balancing for facility and programming equity, traffic impact, safety issues, contiguous boundaries, transportation costs, and natural boundary lines.

Dr. Smith explained a key decision is important for Chisolm Trail Elementary as an example, which grew a lot since the last attendance boundary changes. There are fluctuations in housing and enrollment trends and BISD needs to make sure it doesn't make promises that can't be kept (i.e. these boundaries will be good for seven years).

Mr. Morgan added that the 2014 and 2018 attendance boundary processes will also be reviewed during this next process.

Ms. Bass commented that she thinks it's really important to be very transparent every step of the way.

C. School Naming Update

Mr. Morgan explained that the District wants school naming to be an impartial and fair process that follows policy. The nomination period for elementary schools #12 and #13 is still open and once nominations close, the facilities naming committee will be assembled with a goal of finalizing within three meetings. A little over 30 nominations have been received to date that include names important to Belton and the community. He noted that he has been impressed with the nominations submitted thus far.

D. Bond Projects Update

Mr. Morgan presented an update of planning meetings that have been held since the last project update. He indicated a lot of people will be bringing ideas to the table and the best recommendations will be brought forward. He expressed pride in the work that's been done so far and he looks forward to seeing what the DELTA project and Ag groups come back with. He noted that there should be more photos and design work by the November facilities committee meeting.

Dr. Smith commented that's it's exciting to go through the project design phase and have the opportunity to come up with ideas for facilities that will serve the next 40 years.

Issues/Concerns for Future Agenda or Administrative Reports: None.

Adjourn: The meeting adjourned at 5:55 PM.

Next Meeting: Monday, November 7, 2022, 5:00 PM

**BELTON INDEPENDENT SCHOOL DISTRICT
BOARD WORKSHOP MINUTES
October 17, 2022; 5:00 p.m. – Bronco Room**

BOARD MEMBERS PRESENT:

Jeff Norwood
Ty Taggart
Manuel Alcozer
Janet Leigh
Chris Flor
Erin Bass

BOARD MEMBERS ABSENT:

Suzanne M. McDonald

CALL TO ORDER

Jeff Norwood, Board President, called the workshop meeting of the Belton Independent School District Board of Trustees to order at 5:00 p.m. He stated that a quorum of Board Members was present, that the meeting had been duly called, and that notice of the meeting had been posted in accordance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

PUBLIC COMMENTS: None

OVERVIEW OF GOALS AND KEY PROGRESS MEASURES FOR THE 2022-2023 SCHOOL YEAR

Dr. Malinda Golden, Deputy Superintendent, touched on each goal and the associated key progress measure(s), with the exception of Goal 2 which was discussed in the next item. General comments follow:

- Ms. Leigh praised staff for focusing on these and bringing up the standard. She noted that she'd like to take the board self-assessment again as she thinks her answers would change based on work that's been done since the last assessment.
- Mr. Alcozer mentioned the overlap in competencies in the journey of a graduate and world-class employee, and Todd Schiller stated that was intentional, as is the new employee evaluation system which ties employee goals to those competencies.
- Mr. Flor asked how the key progress measure on professional learning is measured, and Mr. Schiller explained that a document was created in Docunav that allows the Human Resources department to track and report on responses to professional learning goals.
- Ms. Bass stated she is excited about the goals and KPMs which she thinks allow her to ask the right questions along the way. With regard to Goal 4, she talked about how student behavior is critical and can get in the way of learning.
- Ms. Leigh added that she wants teachers to know that a student behavior framework is going to be developed as she thinks they need reassurance that they will be supported.

The Key Progress Measures for 2022-2023 will be presented for action during the regular meeting.

UPDATE ON GOAL 2 – ENSURE EXCEPTIONAL LEARNING EXPERIENCES FOR EACH AND EVERY STUDENT

A. 2021-2022 Academic Performance

Dr. Deanna Lovesmith, Assistant Superintendent of Teaching & Learning, reviewed the status of House Bill 3 goals for 3rd grade reading and math along with STAAR scores; she also reviewed early childhood reading progress and the status of HB3 goals for College, Career and Military Readiness (CCMR). The following HB3 goals for 2022-2023 were identified:

- The percent of 3rd grade students that score ³² “MEETS” grade level or above on STAAR Reading will increase from 50% (2022) to 60% by June 2024.

**Belton ISD Board Workshop Meeting
October 17, 2022 – Page 2**

- The percent of 3rd grade students that score “MEETS” grade level or above on STAAR Math will increase from 52% to 60% by June 2024.
- The percentage of graduates that meet the criteria for CCMR will increase from 72% (2022 graduates) to 100% by August 2024 (2023 graduates).

B. 2022-2023 Improvement Efforts

Dr. Lovesmith briefly talked about improvement efforts underway and touched on the Targeted Improvement Plan for Southwest Elementary School, which will be presented in greater detail in the regular meeting.

ADJOURN: There being no further business, the meeting was adjourned at 6:05 p.m.

Jeff Norwood, President

Manuel Alcozer, Secretary

**BELTON INDEPENDENT SCHOOL DISTRICT
BOARD MEETING MINUTES
Regular Meeting, October 17, 2022 – 6:15 p.m.
Pittenger Fine Arts Center**

BOARD MEMBERS PRESENT

Jeff Norwood
Ty Taggart
Manuel Alcozer
Suzanne M. McDonald
Janet Leigh
Chris Flor
Erin Bass

BOARD MEMBERS ABSENT

CALL TO ORDER, MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Jeff Norwood, Board President, called the regular meeting of the Belton Independent School District Board of Trustees to order at 6:15 p.m. He stated that a quorum of Board Members was present, that the meeting had been duly called, and that notice of the meeting had been posted in accordance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

RECOGNITIONS

A. Student Showcase – Cantando Mixed Show Choir from Lake Belton High School

Jennifer Bailey, Executive Director of Communications & Community Engagement, recognized Cantando, Lake Belton High School's (LBHS) new audition-only mixed show choir. The group began this fall and sings music from a variety of genres, and are currently working on music for their Disney Cabaret on October 29. Members of the group are: Ashley Navarrete, Elizabeth Coburn, Makenna Peace, Payton Elliott, Anna James, Lauren Price, Madison Letts, Jordan Powell, Aidan Fenton, Pate Palomino, Zachary Reyes, Corbin Mock, Derek Toledo, Stone Wall, Joaquin Garza, Jack Tucker and Caden Love.

B. National Merit Semifinalists

Ty Taggart presented certificates to Belton High School (BHS) senior Caleb Bovell and Belton New Tech @Waskow (BNT@W) senior Kevin Thomas who are being recognized by the National Merit Program as semifinalists in the National Merit Scholarship Program for their performance on the Preliminary SAT (PSAT). To qualify as a National Merit semifinalist, both students' high scores on the PSAT placed them in the top 1 percent of more than 1.5 million students who took the test last fall. As the next step in the scholarship competition, Bovell and Thomas will submit essays, recommendations and additional test scores to the National Merit Scholarship Corporation. Finalists will be announced in the spring.

C. National Merit Commended Scholars

Janet Leigh presented certificates to the following students who were recognized by the National Merit Program as Commended Scholars for 2023: Karmanyaah Malhotra from BHS; David Larsen from LBHS; and Michael Savino, Duncan Lancaster, William Asuncion-Crabb and Kole Petersen from BNT@W. Ranked in the top 5 percent in the nation for scores on the PSAT, these Belton ISD students are among about 34,000 selected as Commended Scholars out of 1.5 million students who took the test last fall.

D. 2022 Texas State Solo-Ensemble Contest Outstanding Performers

Manuel Alcozer presented certificates to students who earned top recognition at the 2022 Texas State Solo-Ensemble Contest: Rachel Kim, a sophomore from LBHS, and Angel Rios-Torres and

**Belton ISD Board Meeting Minutes
October 17, 2022 – Page 2**

Ethan Rasmussen, both who graduated last year from BHS, were named Outstanding Performers for solos performed at the contest in May. The honor comes with a gold-draped medallion identical to state champions in all UIL events. Of about 100,000 students participating in the regional UIL music contests and the thousands of musicians who performed at TSSEC, only 2-3% of the solo performances earned the Outstanding Performer honor. Kim earned her award for a violin solo. Rios-Torres performed a euphonium/baritone horn solo while Rasmussen performed a keyboard percussion solo.

E. Temple Rotary Educator of the Month

Manuel Alcozer presented a certificate to Kacy Hancock who was chosen for this honor. Kacy serves as an eighth-grade ELAR teacher at North Belton Middle School. She is in her 3rd year in education, all in Belton ISD.

F. Belton Rotary Educator of the Quarter

Jeff Norwood presented a certificate to Julia Potts who was chosen for this honor. Julia serves as a first-grade teacher at Sparta Elementary. She is in her 7th year in education, all of which are in Belton ISD.

G. National Principals Month

Each October, National Principals Month recognizes the essential role that principals play in making a school great. The success of Belton ISD as a district is a direct result of the hard work campus principals do on behalf of students and staff. Belton ISD's principals are Sheila Surovik, Belton Early Childhood School; Christopher Lockamy, Charter Oak Elementary; Elizabeth McMurtry, Chisholm Trail Elementary; Jeanna Sniffin, High Point Elementary; Marcie Beck, Leon Heights Elementary; Christy Chandler, Lakewood Elementary; Hope Orsag, Miller Heights Elementary; Rebecca Vaughn, Pirtle Elementary; Dawn Schiller, Southwest Elementary; Julee Manley, Sparta Elementary; Aubrey Itz, Tarver Elementary; Timothy Goodridge, Belton Middle School; Kris Hobson, Lake Belton Middle School; Michelle Tish, North Belton Middle School; Kevin Taylor, South Belton Middle School; Ben Smith, Belton High School; Jill Ross, Lake Belton High School; Kim Winters, Belton New Tech @Waskow; and Sandy Garrett, District Alternative Education Program.

Dr. Smith praised principals and expressed thanks for all of the work that they've done and continue to do.

H. Department Showcase – Human Resources

Ms. Bailey spotlighted the human resources team that works tirelessly to recruit and retain world-class employees who directly impact students on a daily basis. The team is responsible for supporting the District's most important asset — its people — by keeping them informed about policies, working conditions, compensation and benefits. The team also monitors and manages workforce trends, organizational culture and legal and legislative trends.

PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA

Clinton Bailey, Belton, spoke about item 8O on the consent agenda, which will allow students who live within two miles of Miller Heights Elementary to be eligible for transportation services from BISD. He praised Board Member Suzanne M. McDonald who offered to take his child to school in the interim.

JOURNEY OF A GRADUATE – COLLABORATION

Dr. Smith asked the Board to weigh in on the District’s Collaboration competency in the Journey of a Graduate on why it’s important to focus on adaptability and how they’d like to see it in the BISD system.

- A BISD learner respects and uses strengths to building collective commitment toward common goals.

PUBLIC HEARINGS

A. Public Hearing Regarding the 2021-2022 School Financial Integrity Rating System of Texas (FIRST) Report

Melissa Lafferty, Chief Financial Officer, gave an overview of the Schools FIRST rating system, a report based on district staff, student, and financial data for the prior school year as reported to the Texas Education Agency (TEA), with the primary goal of achieving quality performance in the management of school districts’ financial resources.

She reviewed the 20 indicators in the worksheet for the report and noted that BISD received a rating of (A) Superior with a score of 98 for 2021-2022 based on 2020-2021 fiscal year data. Ms. Lafferty explained that a public hearing is required for this report.

Mr. Norwood opened the public hearing at 6:43 p.m. There were no comments during the hearing therefore the hearing was closed. Dr. Smith thanked Ms. Lafferty for her review of the report.

ACTION ITEMS

A. Consider, Discuss, and Take Appropriate Action Regarding Legislative Priorities for 2022-2023

Dr. Smith explained that one of the primary responsibilities of a school board is to serve as an advocate for public schools. In a May workshop discussion, the areas of school finance, assessment and accountability and local control emerged as key areas of interest for BISD Trustees. Following additional research and conversation with key public education advocates, a list was developed detailing priorities: sustain and increase flexibility in school finance; improve assessment and accountability; and protect local control. He indicated the Policy Committee discussed the topic at its June 6, August 1 and October 3 meetings, and further refinements were made and a final version is presented for the Board’s consideration.

Chris Flor made a motion, seconded by Ty Taggart, to approve the Legislative Priorities for 2022-2023 as presented. The motion carried unanimously (7-0).

B. Consider, Discuss, and Take Appropriate Action Regarding Adoption of District Key Progress Measures and Campus Objectives

Dr. Malinda Golden, Deputy Superintendent, explained Texas Education Code 11.251(a) requires each campus and district to develop, review, and revise campus/district goals and objectives. At the July 2021 Board meeting, five district goals were approved. District and campus administrators drafted key progress measures and action plans with feedback from DWEIC and campus teams. She requested the Board approve the key progress measures which align with BISD’s goals, along with the campus objectives written in the District and Campus Improvement Plans.

Mr. Taggart expressed appreciation for the deep dive in this subject during the workshop prior to this meeting, as it made it easier to understand.³⁶

**Belton ISD Board Meeting Minutes
October 17, 2022 – Page 4**

Suzanne M. McDonald made a motion, seconded by Janet Leigh, to adopt the Key Progress Measures and Campus Objectives as presented. The motion carried unanimously (7-0).

C. Consider, Discuss, and Take Appropriate Action Regarding Targeted Improvement Plan for Southwest Elementary School

Gabi Nino, Executive Director of Campus Leadership, Elementary, introduced Dawn Schiller, Principal of Southwest Elementary School, and Holly Moore, Director of Accountability & Intervention. She went on to review the proposed Targeted Improvement Plan (TIP) for Southwest Elementary, which included prioritized foundational areas and the District’s commitments related to the plan. Southwest has been identified as a campus required to engage in interventions and school support through the state’s school improvement process. Ms. Nino will continue to work with Ms. Schiller to develop and implement the plan based on their needs assessment, and Ms. Moore will support assessment and compliance requirements. The campus is required to have the Board approve the TIP and to report ongoing progress to TEA.

Mr. Flor praised the work and hiring of Ms. Schiller as Principal, and asked them to not hesitate to reach out if the Board can help in any way. Ms. Leigh also praised the plan and asked for information on support for AIMS students.

Ms. McDonald stated there have been reports on Southwest before, and asked if this is a continuation or did something change, and Ms. Nino explained that Southwest was required to have a TIP two years ago based on its “D” rating. The accountability system labels have changed and Southwest is now “Not Rated” based on student performance on STAAR. The campus continues to be required to have a TIP, however the plan has been modified based on current needs.

Mr. Alcozer stated this sounds like a great plan and he is looking forward to seeing the results, and Ms. Bass also expressed support to Ms. Schiller. In closing, Dr. Smith stated he is proud of the staff and work going on at Southwest. This is a state requirement, and he’s glad that Ms. Schiller is there to lead and believes they will make headway this year.

Manuel Alcozer made a motion, seconded by Ty Taggart, to approve the Targeted Improvement Plan for Southwest Elementary School as presented. The motion carried unanimously (7-0).

REPORTS

A. Fall Preliminary Demographer Report

Dr. Smith introduced Bob Templeton, Zonda Education, who gave an update of the Belton-Temple economy and housing market, and anticipated future housing development in the District, to include 10-year forecasts for all grade levels and each campus (in moderate and high growth forecast levels).

Key takeaways included the following:

- Enrollment trends are returning to “pre-pandemic levels;
- Interest rates are impacting home sales;
- Spring 2023 will be key season to see how buyers respond to higher interest rates;
- Belton ISD currently has about 13,300 students, but five-year enrollment is headed toward 15,500 students;
- Ten-year enrollment could top 17,300 students;

**Belton ISD Board Meeting Minutes
October 17, 2022 – Page 5**

- New elementary schools need to support current enrollment at Chisholm Trail and Tarver elementary schools; and
- The district currently has 53 actively building subdivisions with groundwork underway on about 1,939 lots. Sixteen future subdivisions are also within the District.

**B. Update on Goal 2 - Ensure exceptional learning experiences for each and every student
1. Exceptional Learning Experiences in CTE, Fine Arts and Athletics**

Dr. Malinda Golden, Deputy Superintendent, introduced staff who presented information regarding Goal 2:

- Dr. Stephanie Ferguson, Director of Career & Technical Education, gave an overview of CTE courses, participation levels and new innovative programs added in 2022-2023;
- Keith Zuehlke, Director of Fine Arts reviewed elementary and secondary fine arts offerings and enrollment by program; he highlighted fine arts accomplishments in 2021-2022 along with continuous improvements in this school year; and
- Sam Skidmore, Director of Athletics, touched on the successes in the athletics programs and program enrollment at the middle and high school levels; he concluded with information on feedback loops, the athletic dashboard and information on how athletes are giving back to their community.

The Board and Dr. Smith thanked these individuals for their valuable reports and their work to help students inspire dreams and empower futures.

C. 2022 Bond Progress Update

Mike Morgan, Assistant Superintendent of Operations, updated Trustees on the status of 2022 bond projects. Construction on Elementary #12, located in Temple's North Gate subdivision, is underway, and the District recently purchased 20 new buses that will be incorporated into the fleet in the coming months.

Elementary #13, Belton High School renovations and additions, Lake Belton Middle School additions, Southwest Elementary addition and the secure entry vestibules are all in the design phase.

Other projects are in the programming stage where district officials are assessing needs and options and scheduling project phases. This includes the expansion of the District's agricultural facility; a facility for the Delta Program which supports students with special needs transitioning to adult independent living and work; security cameras and keyless entries; and mechanical, electrical, plumbing and roofing projects.

D. TASA/TASB Convention Report

All board members attended this year's convention with the Superintendent and gave brief summaries of sessions they attended.

E. TASB Delegate Assembly Report

Ms. Bass and Mr. Flor gave brief reports about this year's TASB Delegate Assembly, as they serve as BISD's delegate and alternate.

F. Facilities Committee Report

Mr. Taggart gave a report on the Facilities Committee Meeting held on October 11, 2022, that

**Belton ISD Board Meeting Minutes
October 17, 2022 – Page 6**

included the following topics:

- Review and Discuss the Following Items:
 - A. Fall Preliminary Demographer Report
 - B. Attendance Zone Process
 - C. School Naming Update
 - D. Bond Projects Update

G. Policy Committee Report

Manuel Alcozer gave a report on the Policy Committee Meeting held on October 3, 2022, that included the following topics:

- Review and Discuss the Following Items:
 - A. Board Operating Procedures
 - B. Texas Association of School Board's Initiated Localized Policy Update 119 - 1st Reading
 1. EHBB(LOCAL): Special Programs - Gifted and Talented Students
 2. FFBA(LOCAL): Crisis Intervention - Trauma-Informed Care
 3. FFH(LOCAL): Student Welfare - Freedom from Discrimination, Harassment, and Retaliation
 - C. TASB Policy Review Local Policies to Address - 1st Reading
 1. BDAA(LOCAL): Officers and Officials - Duties and Requirements of Board Officers
 2. CQ(LOCAL): Technology Resources
 3. DNA(LOCAL): Performance Appraisal - Evaluation of Teachers
 4. EB(LOCAL): School Year
 5. FNAAL(LOCAL): Student Expression - Distribution of Nonschool Literature
 - D. Legislative Priorities

H. Superintendent's Report

Dr. Smith recapped the highlights of this month, which included his attendance to Manufacturing Day and LBHS' performance of *The Hobbit*. He highlighted how the District is working to improve on a regular basis and described how principals meet twice monthly as a group to learn from each other. Once is to focus on instructional leadership and once to focus on operational leadership — both of which are important in their roles. Dr. Smith expressed thanks for the Belton Educational Enrichment Foundation, which he said has a unique focus on student scholarships that he has not seen elsewhere. He indicated it was a joy to see parents back on campuses during his visits and expressed appreciation for the opportunity to meet with PTA leaders and hopes to include Board Members in future meetings.

CONSENT AGENDA – CONSIDER AND TAKE APPROPRIATE ACTION

A. Minutes of Previous Meetings:

1. August 1, 2022 Policy Committee Meeting – Approve
2. August 22, 2022 Regular Meeting
3. September 6, 2022 Policy Committee Meeting – Approve
4. September 12, 2022 Facilities Committee Meeting – Approve
5. September 15, 2022 Special Meeting – Approve
6. September 19, 2022 Regular Meeting – Approve

B. Unaudited Financial Report for the Month Ending September 30, 2022 – Approve report

C. Gifts, Grants and Bequests – List provided for information only; no action required

D. Budget Amendment #1 for 2022-2023 – Approve

Belton ISD Board Meeting Minutes
October 17, 2022 – Page 7

E. Expenditures over \$50,000

1. Renewal of Smartnet for Support of Cisco Equipment – Approve expenditure of \$218,000.81 for enterprise phones and wireless system controllers with funds allocated in the general fund budget.
2. Renewal of Microsoft Office 365 – Approve expenditure of \$83,315.76 for licenses for all Microsoft Office suite products with funds allocated in the general fund budget.
3. Renewal of Alert Logic for Network Monitoring Services – Approve expenditure of \$87,379.20 for this service with funds allocated in the general fund budget.
4. Renewal of Voice EA Software License for Phone System – Approve expenditure of \$58,528.80 with funds allocated in the general fund budget.
5. Contract with SustainEd for Math Literacy Framework – Approve expenditure of \$87,500 as part of the TEA Strong Foundation Grant to implement professional development and guidance on the development of a math literacy framework. The entire cost of the vendor is prescribed by TEA and funded completely through the grant.

F. Supply, Equipment, and Service Bids

1. RFP #2208-700-291 for Software & Applications, Supplemental III – Approve vendor list with a contract effective November 1, 2022 through June 30, 2023 with two (2) automatic renewals, one year at a time.

G. 2021-2022 School Health Advisory Council (SHAC) Report – Approve report

H. Appointment of 2022-2023 School Health Advisory Council (SHAC) – Approve

I. Resolution of Board to Convene the District's School Health Advisory Council (SHAC) to Recommend Curriculum – Approve

J. Superintendent Evaluation Instrument – Approve

K. Amendment to Superintendent's Contract – Approve

L. Texas Association of School Board's Initiated Localized Policy Update 119 - 2nd Reading – Approve

1. EHBB(LOCAL): Special Programs - Gifted and Talented Students
2. FFBA(LOCAL): Crisis Intervention - Trauma-Informed Care
3. FFH(LOCAL): Student Welfare - Freedom from Discrimination, Harassment, and Retaliation

M. Additions/Revisions/Deletions of (LOCAL) Policies Resulting from the Policy Review Sessions conducted on March 8, 2022 with Drafts Prepared by TASB Policy Service - 2nd Reading – Approve

1. BDAA(LOCAL): Officers and Officials - Duties and Requirements of Board Officers
2. CQ(LOCAL): Technology Resources
3. DNA(LOCAL): Performance Appraisal - Evaluation of Teachers
4. EB(LOCAL): School Year
5. FNAA(LOCAL): Student Expression - Distribution of Nonschool Literature

N. Approval of Design Educational Specifications – Approve

O. Hazardous Route Resolution – Approve

P. Professional Development Plan per DMA(LOCAL) – Approve

Ms. McDonald requested that item O regarding the hazardous route resolution be pulled from the consent agenda as she is personally involved and wants to recuse herself so the Board can ask any questions if desired.

Ty Taggart made a motion, seconded by Janet Leigh, to approve the consent agenda items minus item O as presented. The motion carried by a vote of 7-0.

O. Hazardous Route Resolution

Mr. Taggart stated he believes they have been provided adequate information on the item, and Mr. Alcozer thanked Ms. McDonald for her kindness in helping a Miller Heights student get to school safely.

Erin Bass made a motion, seconded by Ty Taggart, to approve the hazardous route resolution as presented. The motion carried by a vote of 6-0-1, with Ms. McDonald abstaining.

BOARD REQUESTS FOR NEW INFORMATION AND/OR REPORTS

None.

CALENDAR OF EVENTS

Mr. Norwood reminded the Board of upcoming events.

PUBLIC COMMENTS REGARDING NON-AGENDA ITEMS

- Caroline Wagner, Temple, discussed safety concerns near the proposed development of apartments at the corner of Cedar Road and West Adams.

ADJOURN

There being no further business, the meeting was adjourned at 8:29 p.m.

Jeff Norwood, President

Manuel Alcozer, Secretary

Belton Independent School District
Board of Trustee Meeting Agenda Item
November 14, 2022

Item: Unaudited Financial Report for the Month Ending October 31, 2022

Contact Person: Melissa Lafferty

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

Background Information:

Attached is the Monthly Financial and Investment Reports for the District. The reports represent the financial activity as of the close of the prior month for the General Fund 199, the Child Nutrition Fund 240, and the Debt Service Fund 599. These are unaudited figures and an independent financial audit will be performed for the period ending August 31, 2023 and presented under separate cover.

The monthly investment report provides information on the District's cash and investment accounts including investment transactions as of the close of the noted month. CDA(Legal).

Additional information is provided on tax collections and student average daily attendance (ADA). The tax year is October 1 to September 30.

Fiscal Implications:

For informational purposes only.

Administrative Recommendation(s):

Accept the monthly financial and investment report as presented.



FINANCIAL STATEMENTS & INVESTMENT REPORT

TABLE OF CONTENTS

Description

- Financials - Unaudited Statements of Revenues and Expenditures
 - General Operating - 199
 - School Nutrition - 240
 - Debt Service - 599

- Tax Collection Report

- Average Daily Attendance

- Investment Report - Monthly

BELTON ISD
Statement of Unaudited Revenues and Expenditures Budget VS. Actual
General Fund (199)
As of October 31, 2022

		Adopted Budget	Amended 2022-23	Y-T-D Actual	Balance	Percent of Total
Revenues						
5700	Local Sources	\$ 52,628,055	\$ 52,638,055	\$ 7,494,601	\$ 45,143,454	14.2%
5800	State Sources	82,415,364	82,415,364	33,457,235	48,958,129	40.6%
5900	Federal Sources	2,500,000	2,500,000	104,621	2,395,379	4.2%
	Total Revenues	\$ 137,543,419	\$ 137,553,419	\$ 41,056,456	\$ 96,496,963	29.8%
Expenditures						
11	Instruction	\$ 77,884,889	\$ 77,894,889	\$ 11,958,425	\$ 65,936,464	15.4%
12	Instructional resources & media	1,635,994	1,635,994	260,706	1,375,288	15.9%
13	Curriculum & staff development	4,639,524	4,639,524	559,410	4,080,114	12.1%
21	Instructional leadership	2,396,245	2,396,245	416,064	1,980,181	17.4%
23	School leadership	8,452,199	8,452,199	1,299,154	7,153,045	15.4%
31	Guidance, counseling, & evaluation	6,387,087	6,387,087	934,625	5,452,462	14.6%
32	Social work services	176,983	176,983	28,420	148,563	16.1%
33	Health services	2,291,027	2,291,027	333,298	1,957,729	14.5%
34	Student transportation	5,562,309	5,562,309	1,260,295	4,302,014	22.7%
36	Cocurricular/extracurricular	6,342,989	6,341,489	826,849	5,514,640	13.0%
41	General administration	4,341,086	4,341,086	783,645	3,557,441	18.1%
51	Plant maintenance and operations	14,488,859	14,488,859	2,940,564	11,548,295	20.3%
52	Security and monitoring services	1,959,266	1,960,766	351,137	1,609,629	17.9%
53	Data processing services	4,265,810	4,265,810	794,611	3,471,199	18.6%
61	Community services	5,000	5,000	2	4,998	0.0%
71	Debt Service	-	-	-	-	0.0%
81	Facilities acquisition & construction	-	-	-	-	0.0%
93	Payments to fiscal agent	-	-	-	-	0.0%
95	Payments to JJAEP	15,000	15,000	-	15,000	0.0%
97	Tax Increment	250,000	250,000	-	250,000	0.0%
99	Intergovernmental Charges	662,818	662,818	154,693	508,125	23.3%
	Total Expenditures	\$ 141,757,085	\$ 141,767,085	\$ 22,901,896	\$ 118,865,189	16.2%
	Other resources	-	-	-		
	Other uses	-	-	-		
	Total Non-Operating	-	-	-		
	Excess (Deficiency) of Revenues over Expenditures	(4,213,666)	(4,213,666)	18,154,560		
	Fund Balance (unaudited), 8-31-2022	\$ 39,183,836	\$ 39,183,836	\$ 39,183,836		
	Fund Balance, Ending	\$ 34,970,170	\$ 34,970,170	\$ 57,338,396		

BELTON ISD
Statement of Unaudited Revenues and Expenditures Budget VS. Actual
Child Nutrition (240)
As of October 31, 2022

		Adopted Budget	Amended 2022-23	Y-T-D Actual	Balance	Percent of Total
Revenues						
5700	Local Sources	\$ 1,100,000	\$ 1,100,000	\$ 583,768	\$ 516,232	53.1%
5800	State Sources	30,000	30,000	21,847	8,153	72.8%
	Federal Sources	7,422,434	7,422,434	952,588	6,469,846	12.8%
	Total Revenues	\$ 8,552,434	\$ 8,552,434	\$ 1,558,203	\$ 6,994,231	18.2%
Expenditures						
35	Food Services, Child Nutrition	\$ 8,552,434	\$ 8,552,434	\$ 1,365,651	\$ 7,186,783	16.0%
	Total Expenditures	\$ 8,552,434	\$ 8,552,434	\$ 1,365,651	\$ 7,186,783	16.0%
	Other resources	-	-	-		
	Other uses	-	-	-		
	Total Non-Operating	-	-	-		
	Excess (Deficiency) of Revenues over Expenditures	-	-	192,552.77		
	Fund Balance (unaudited), 8-31-2022	\$ 3,202,753	\$ 3,202,753	\$ 3,202,753		
	Fund Balance, Ending	\$ 3,202,753	\$ 3,202,753	\$ 3,395,306		

BELTON ISD
Statement of Unaudited Revenues and Expenditures Budget VS. Actual
Debt Service Fund (511 and 515)
As of October 31, 2022

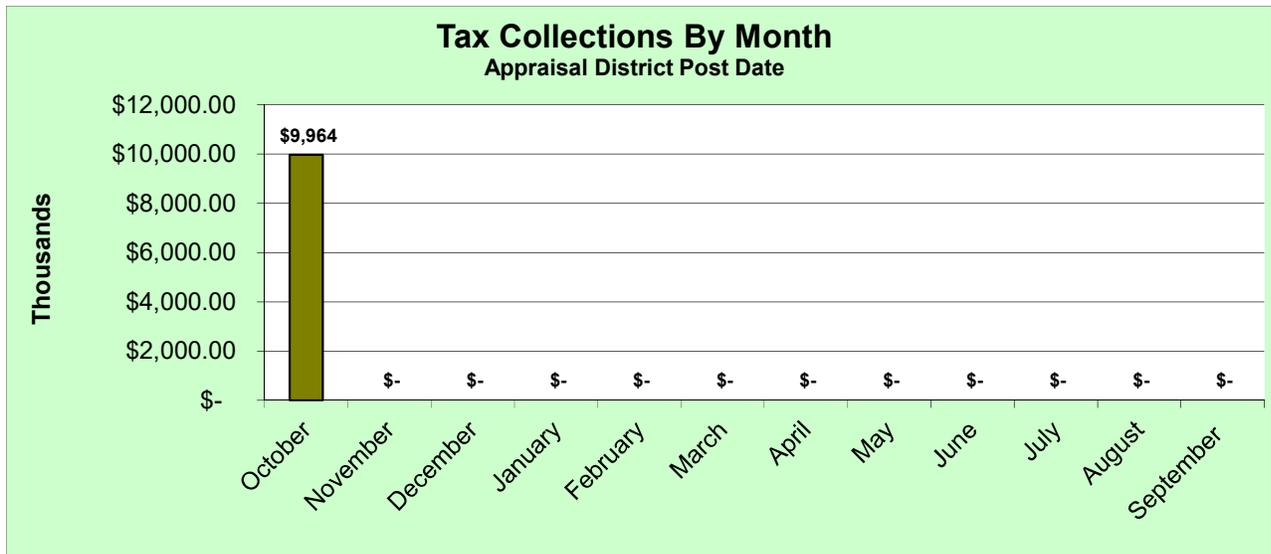
		Adopted Budget	Amended 2022-23	Y-T-D Actual	Balance	Percent of Total
Revenues						
5700	Local Sources	\$ 22,058,936	\$ 22,058,936	\$ 3,275,936	\$ 18,783,000	14.9%
5800	State Sources	205,509	205,509	-	205,509	0.0%
5900	Federal Sources	-	-	-	-	0.0%
	Total Revenues	\$ 22,264,445	\$ 22,264,445	\$ 3,275,936	\$ 18,988,509	14.7%
Expenditures						
71	Debt Service	\$ 23,633,262	\$ 23,633,262	\$ 18,151	\$ 23,615,111	0.1%
	Total Expenditures	\$ 23,633,262	\$ 23,633,262	\$ 18,151	\$ 23,615,111	0.1%
	Other resources	-	-	-		
	Other uses	-	-	-		
	Total Non-Operating	-	-	-		
	Excess (Deficiency) of Revenues over Expenditures	(1,368,817)	(1,368,817)	3,257,785		
	Fund Balance (unaudited), 8-31-2022	\$ 11,227,491	\$ 11,227,491	\$ 11,227,491		
	Fund Balance, Ending	\$ 9,858,674	\$ 9,858,674	\$ 14,485,277		

Tax Collection Report

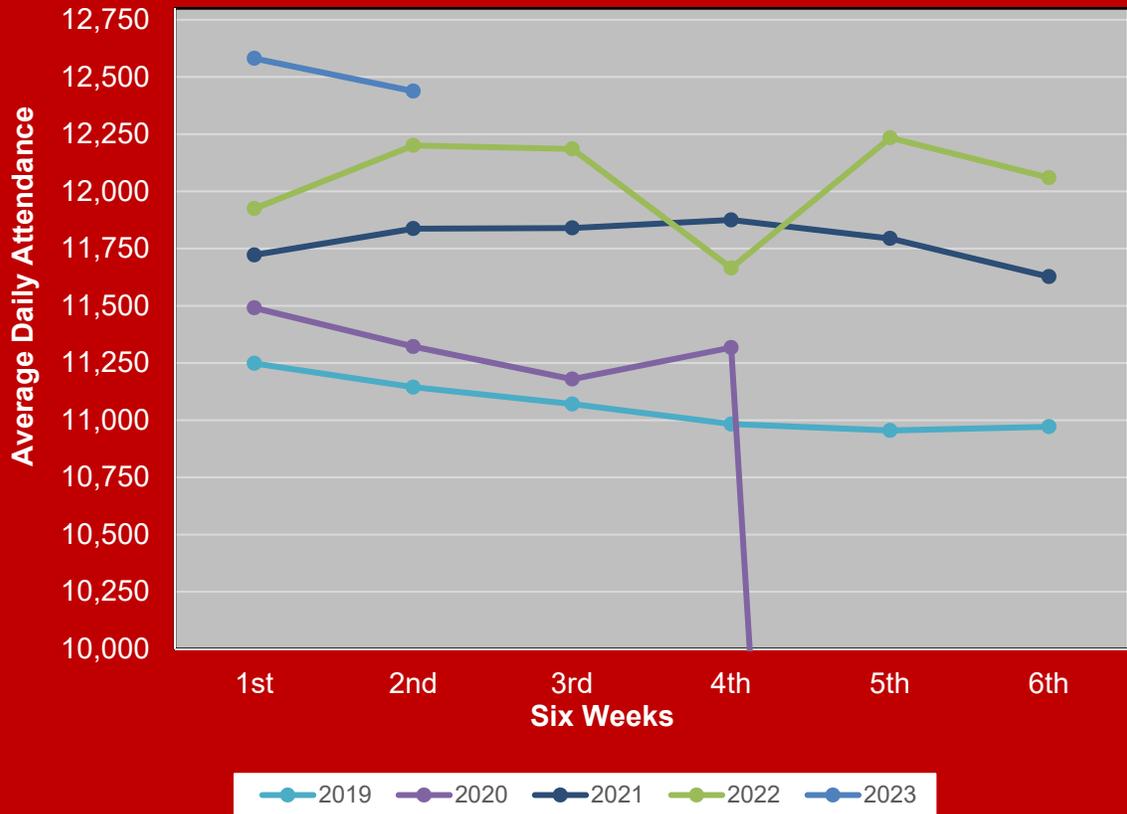
Total Tax Levy		\$ 75,645,761
Percent of Levy*	Current Year	13.03%
Percent of Levy**	Current & Delinquent	13.12%
Total Checks		\$ 9,963,601
Balance to Collect		\$ 65,721,860
<u>Total Collections</u>		
Current*		\$ 9,854,374
Delinquent**		\$ 69,527
Penalties		\$ 39,700
<u>Other Reconciled for Posting</u>		
Total Checks		\$ 9,963,601

Collections By Category

	Current	Delinquent	Penalties	Other	
Maintenance & Operating	6,950,969	49,484	35,011	0	
Interest & Sinking	2,903,405	20,043	4,689	0	\$ 9,963,601



Average Daily Attendance



School Year	1st	2nd	3rd	4th	5th	6th	Annual	Change
2019	11,248	11,144	11,071	10,983	10,955	10,972	11,062	300
2020	11,491	11,322	11,179	11,317	C-19	C-19	11,282	220
2021	11,722	11,837	11,840	11,875	11,794	11,627	11,783	501
2022	11,925	12,201	12,186	11,665	12,234	12,060	12,045	262
2023	12,581	12,438						



MONTHLY INVESTMENT REPORT

Belton ISD

OCTOBER 31, 2022



MEEDER

PUBLIC FUNDS
PATTERSON GROUP

A Fragile and Volatile Situation

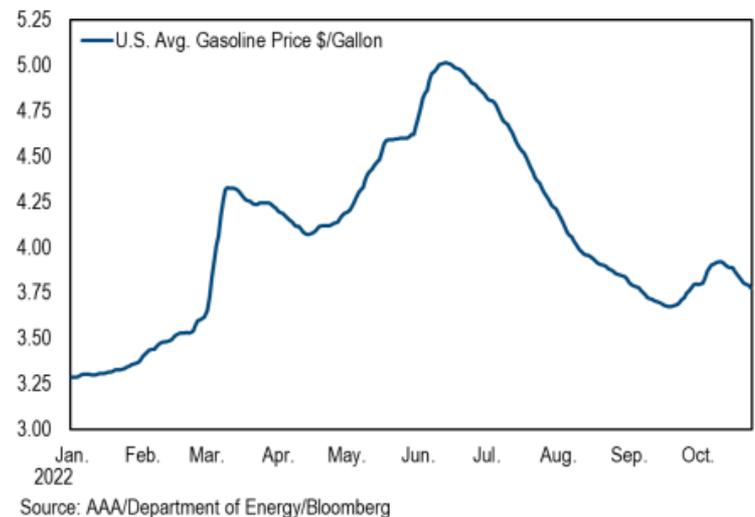
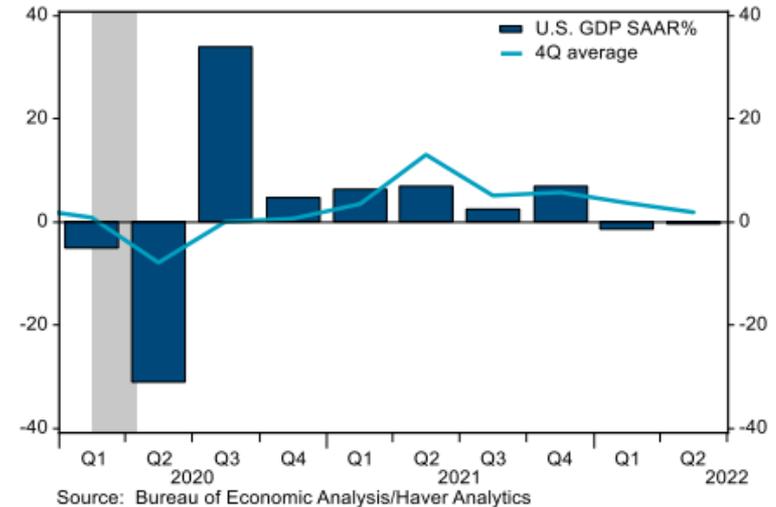
The global markets were wildly distracted on and off this month between anticipating the November Fed action, elections, and international unrest. Some had even predicted a Fed policy “pivot” but with an unemployment rate at a 5-decade low and inflation at a 4-decade high, that time is arguably not now. The Fed’s intentions were made abundantly clear with another 0.75% hike in November.

Central banks around the world are also raising rates. Growth in the Europe Zone is hamstrung. Inflation grew 10.7% in October, the highest gain on record. Growth in the Zone Q3 rose just 0.2% with Belgium, Latvia and Austria growth below 0%. Germany, Spain and France are barely above 0%. They remain focused on reversing the inflation rate.

One main factor is the international energy crisis brought on by Ukraine’s situation and OPEC. OPEC has decided to cut production by 2 million barrels a day. This could bring on a global recession and US/Saudi tensions are rising. At the *Davos of the Desert* the oil minister accused countries of manipulating markets to their advantage...not OPEC though.

Turmoil in the UK added to markets problems also. The Truss administration lasted only 45 days and the new PM R. Sunak now must quickly prioritize fiscal conservatism and reduce government spending while contending with a growing deficit, immigration and its testy relationship with the EU.

Finally, though not unexpected, China confirmed the iron rule of Xi Jinping for a third 5-year term. He plans to hold course but China has weakened its growth estimates and the economy is struggling to regain momentum so it will be difficult.



Treading Water

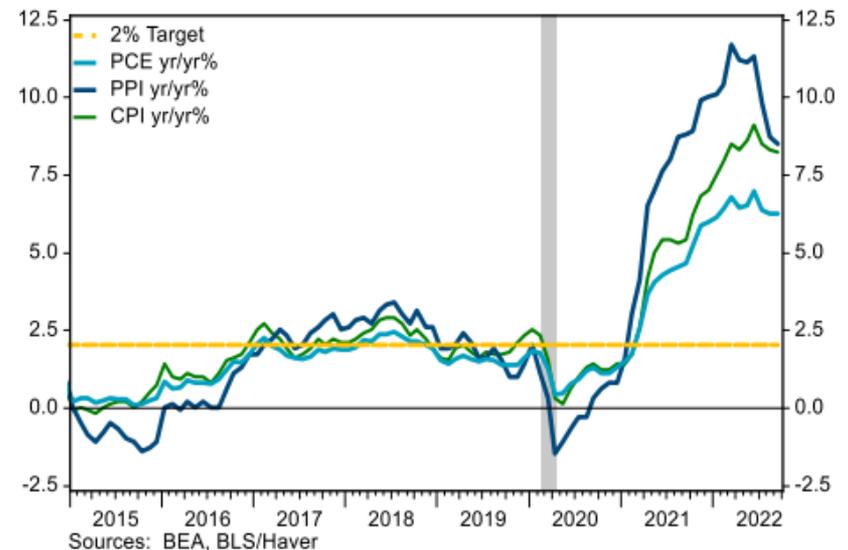
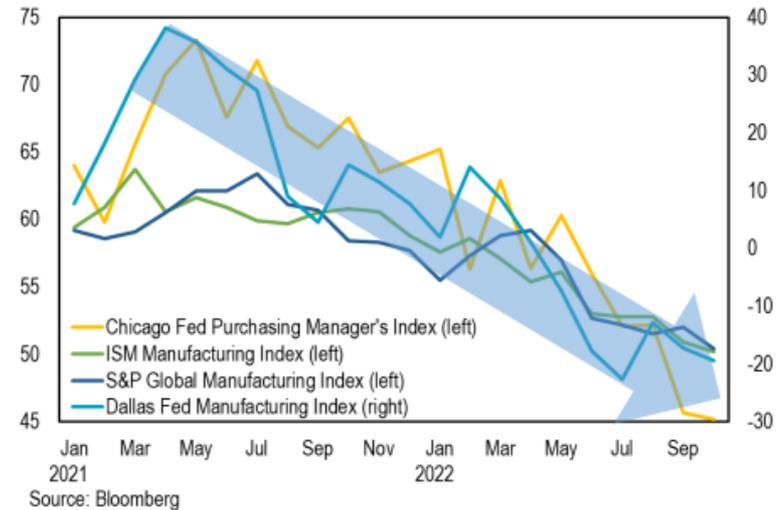
The Federal Reserve is certainly the main player as concerns the US economy. The Fed Chairman's message did not indicate any shift in policy stance.

This commitment is welcomed since in the 1970's the Fed's lack of clear commitment to fighting inflation forced the markets to lose confidence in the Fed's willingness or ability to raise rates enough to stop inflation. As a result, inflation soared. The Fed undoubtedly remembers that lesson even 40 years later.

Establishing the timeline for a downward trend in inflation is probably more important than calling the top in rates. Because then, and only then, can the Fed begin to feel assured that its policy initiatives are taming the inflation beast.

In Q3 the US GDP came as a welcome surprise by showing improvement and breaking a six-quarter negative trend. On a continuing basis the trend may be difficult to hold as consumers eat into their savings and continue to pull back. The growth is fragile showing business investment down, housing starts plunging and exports up but imports down. The slower imports indicates consumer demand is slowing. In the housing sector new home sales are down 11% but interestingly the home prices remain elevated because of the level of supply.

While the slightly different gauges of varying regional and national activity is mixed, the conclusive US trend has been to the downside. While still mostly indicative of positive activity, the momentum has clearly slowed as production responds to a pullback in consumption. In Texas manufacturing output has been growing but new orders are declining, and the overall outlook is worsening according to the Dallas Fed.



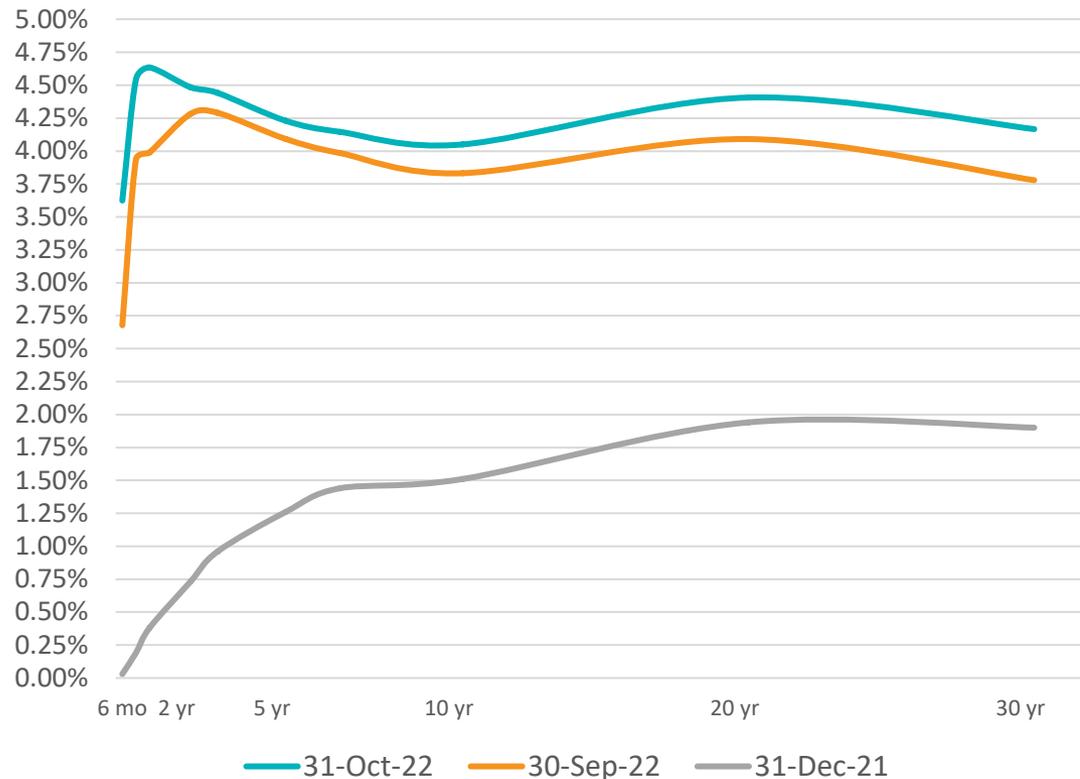
Expectations Drive Rates

The Fed continues to act decisively to tame inflation at any cost to the economy. The Committee raised rates once again for the fourth consecutive 0.75% hike in November after a quiet October, which brings us to 4% before year-end as many anticipated.

The Fed fully concedes that higher rates will slow growth but is willing to take these actions to tame inflation.

This quarter's increase in GDP has changed the recession discussion somewhat but the economy remains very fragile.

The goldilocks situation of slowing growth amid high inflation may take rate increases well into 2023.



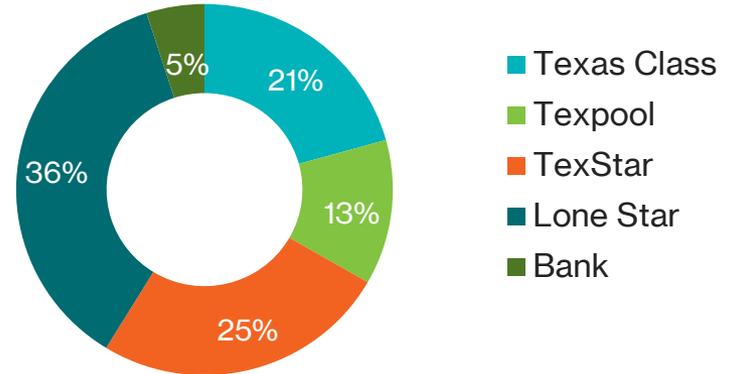
Your Portfolio

As of October 31, 2022

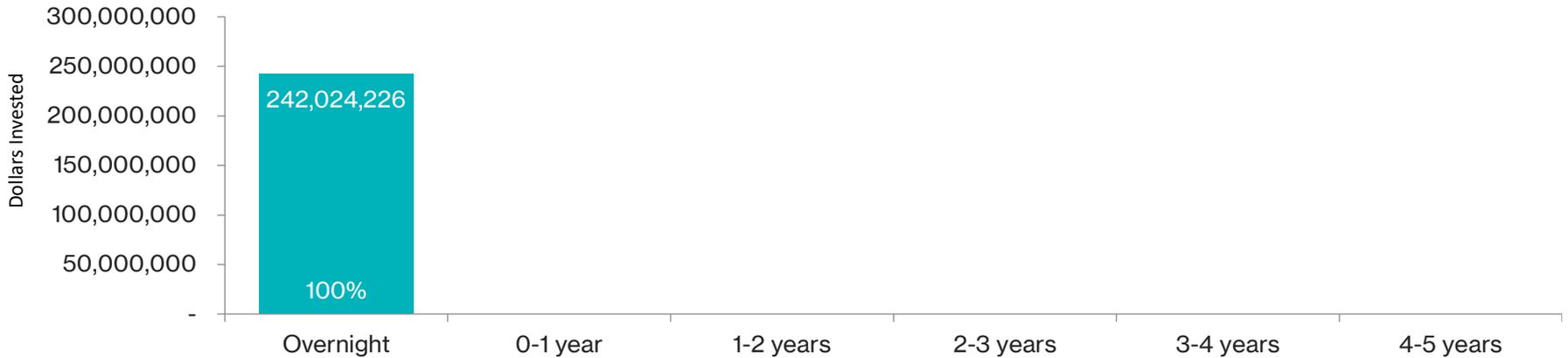
Your Portfolio Statistics

Weighted Average Maturity 1 day
Weighted Average Yield (All Funds) 2.97%

Your Asset Allocation



Your Maturity Distribution



Allocation Percentage Per Year

**Belton ISD
 Portfolio Management
 Portfolio Summary
 October 31, 2022**

Patterson & Associates
 901 S. MoPac
 Suite 195
 Austin, TX 78746

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 365 Equiv.
Texas Class	50,080,610.92	50,080,610.92	50,080,610.92	20.69	1	1	3.229
Texpool/Texpool Prime	30,541,079.66	30,541,079.66	30,541,079.66	12.62	1	1	3.180
TexStar	61,562,579.21	61,562,579.21	61,562,579.21	25.44	1	1	2.853
Lone Star	87,771,356.75	87,771,356.75	87,771,356.75	36.27	1	1	3.250
Bank Accounts/CD's int pd monthly	12,068,599.72	12,068,599.72	12,068,599.72	4.99	1	1	0.000
	242,024,226.26	242,024,226.26	242,024,226.26	100.00%	1	1	2.974

Total Earnings	October 31 Month Ending	Fiscal Year To Date
Current Year	596,055.91	1,061,627.34

The following reports are submitted in accordance with the Public Funds Investment Act (Texas Gov't Code 2256). The reports also offer supplemental information not required by the Act in order to fully inform the governing body of Belton ISD of the position and activity within the District's portfolio of investment. The reports include a management summary overview, a detailed inventory report for the end of the period, a transaction report, as well as graphic representations of the portfolio to provide full disclosure to the governing body.


 _____ 11/8/2022
 Melissa Lafferty, Chief Financial Officer


 _____ 11/8/2022
 Kerri Pridemore, Director of Finance

Belton ISD
Summary by Type
October 31, 2022
Grouped by Fund

Patterson & Associates
 901 S. MoPac
 Suite 195
 Austin, TX 78746
 -

Security Type	Number of Investments	Par Value	Book Value	% of Portfolio	Average YTM 365	Average Days to Maturity
Fund: 2022 Bond Fund						
Lone Star	1	72,763,218.34	72,763,218.34	30.06	3.250	1
Bank Accounts/CD's int pd monthly	1	822,043.70	822,043.70	0.34	0.000	1
Texas Class	1	50,080,609.89	50,080,609.89	20.69	3.229	1
TexStar	1	50,070,911.95	50,070,911.95	20.69	2.853	1
Subtotal	4	173,736,783.88	173,736,783.88	71.78	3.114	1
Fund: Construction Funds						
Lone Star	1	0.00	0.00	0.00	0.000	0
Bank Accounts/CD's int pd monthly	3	440,530.67	440,530.67	0.18	0.007	1
Texpool/Texpool Prime	2	656,477.08	656,477.08	0.27	2.934	1
Subtotal	6	1,097,007.75	1,097,007.75	0.45	1.758	1
Fund: Capital Projects Fund						
Bank Accounts/CD's int pd monthly	1	110,916.60	110,916.60	0.05	0.000	1
Subtotal	1	110,916.60	110,916.60	0.05	0.000	1
Fund: Debt Service Funds						
Bank Accounts/CD's int pd monthly	1	128,998.00	128,998.00	0.05	0.000	1
Texpool/Texpool Prime	1	10,144,835.76	10,144,835.76	4.19	3.210	1
TexStar	1	577,242.17	577,242.17	0.24	2.853	1
Subtotal	3	10,851,075.93	10,851,075.93	4.48	3.153	1
Fund: General Fund						
Lone Star	2	15,008,138.41	15,008,138.41	6.20	3.250	1
Bank Accounts/CD's int pd monthly	3	10,566,110.75	10,566,110.75	4.37	0.000	1
Texas Class	1	1.03	1.03	0.00	3.233	1
Texpool/Texpool Prime	2	19,739,766.82	19,739,766.82	8.16	3.173	1
TexStar	1	10,914,425.09	10,914,425.09	4.51	2.853	1

Belton ISD
Summary by Type
October 31, 2022
Grouped by Fund

Security Type	Number of Investments	Par Value	Book Value	% of Portfolio	Average YTM 365	Average Days to Maturity
Subtotal	9	56,228,442.10	56,228,442.10	23.24	2.535	1
Total and Average	23	242,024,226.26	242,024,226.26	100.00	2.974	1

Belton ISD
Interest Earnings
Sorted by Fund - Fund
October 1, 2022 - October 31, 2022
Yield on Average Book Value

Patterson & Associates
 901 S. MoPac
 Suite 195
 Austin, TX 78746
 -

CUSIP	Investment #	Fund	Security Type	Ending Par Value	Beginning Book Value	Average Book Value	Maturity Date	Current Rate	Annualized Yield	Adjusted Interest Earnings			
										Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings	
Fund: 2022 Bond Fund													
20220	10087	2022BF	RR3	50,070,911.95	0.00	29,034,545.55		2.853	2.876	70,911.95	0.00	70,911.95	
50004	10088	2022BF	LA1	50,080,609.89	0.00	29,034,858.38		3.229	3.269	80,609.89	0.00	80,609.89	
14903B	10084	2022BF	RR4	72,763,218.34	172,449,007.77	114,394,627.47		3.250	3.234	314,210.57	0.00	314,210.57	
50176	10085	2022BF	RR5	822,043.70	1,566,800.00	1,283,460.05				0.00	0.00	0.00	
			Subtotal	173,736,783.88	174,015,807.77	173,747,491.45				3.156	465,732.41	0.00	465,732.41
Fund: Construction Funds													
500007	10011	CON	RR2	621,157.90	619,614.13	619,663.93		2.934	2.933	1,543.77	0.00	1,543.77	
500010	10070	CON	RR2	35,319.18	135,105.17	86,724.98		2.934	2.906	214.01	0.00	214.01	
06216	10062	CON	RR5	2,204.89	15,107.01	16,140.76		1.380	1.376	18.86	0.00	18.86	
98610	10031	CON	RR5	438,325.78	286,394.36	349,816.01				0.00	0.00	0.00	
			Subtotal	1,097,007.75	1,056,220.67	1,072,345.67				1.951	1,776.64	0.00	1,776.64
Fund: Capital Projects Fund													
22689	10035	CP	RR5	110,916.60	126,876.60	111,946.28				0.00	0.00	0.00	
			Subtotal	110,916.60	126,876.60	111,946.28				0.00	0.00	0.00	
Fund: Debt Service Funds													
33330	10003	DS	RR3	577,242.17	575,846.93	575,891.94		2.853	2.853	1,395.24	0.00	1,395.24	
500004A	10041	DS	RR2	10,144,835.76	10,117,250.23	10,118,140.09		3.210	3.210	27,585.53	0.00	27,585.53	
57670	10033	DS	RR5	128,998.00	144,553.00	140,372.35				0.00	0.00	0.00	
			Subtotal	10,851,075.93	10,837,650.16	10,834,404.38				3.149	28,980.77	0.00	28,980.77
Fund: General Fund													
500001	10008	GEN	RR2	2,682,422.53	2,490,943.18	2,646,220.58		2.934	2.934	6,594.55	0.00	6,594.55	
22210	10005	GEN	RR3	10,914,425.09	10,888,044.16	10,888,895.16		2.853	2.853	26,380.93	0.00	26,380.93	
6550003	10073	GEN	LA1	1.03	11,704.98	4,146.55		3.229	3.473	12.23	0.00	12.23	
14903A	10001	GEN	RR4	0.35	0.35	0.35				0.00	0.00	0.00	
500001A	10048	GEN	RR2	17,057,344.29	24,298,903.97	21,474,982.69		3.210	3.204	58,440.32	0.00	58,440.32	

Belton ISD
Interest Earnings
October 1, 2022 - October 31, 2022

CUSIP	Investment #	Fund	Security Type	Ending Par Value	Beginning Book Value	Average Book Value	Maturity Date	Current Rate	Annualized Yield	Adjusted Interest Earnings			
										Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings	
Fund: General Fund													
14903C	10089	GEN	RR4	15,008,138.06	0.00	2,903,488.32		3.250	3.300	8,138.06	0.00	8,138.06	
38955	10028	GEN	RR5	0.00	127,807.32	111,316.05				0.00	0.00	0.00	
57696	10027	GEN	RR5	1,453,738.63	3,362,602.01	3,301,025.77				0.00	0.00	0.00	
57661	10029	GEN	RR5	9,112,372.12	12,339,884.67	12,235,771.36				0.00	0.00	0.00	
			Subtotal	56,228,442.10	53,519,890.64	53,565,846.84				2.189	99,566.09	0.00	99,566.09
			Total	242,024,226.26	239,556,445.84	239,332,034.61				2.932	596,055.91	0.00	596,055.91

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**Meeder Public Funds
Patterson Group**

Barton Oaks Plaza II
901 S. MoPac Expy
Suite 195
Austin, Texas
78746

800.817.2442

Belton Independent School District
Board of Trustee Meeting Agenda Item
November 14, 2022

Item: Gifts, Grants, and Bequests

Contact Person: Melissa Lafferty

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

Background Information:

The District accepts gifts, grants, and bequests from many different sources each school year for the benefit of its students and programs. Policy CDC(LOCAL) gives authority to the Superintendent to accept most gifts, grants, or bequests.

Fiscal Implications:

Attached for your information is a list of donations that have been accepted. Budget amendments required for the expenditure of these funds will be presented as needed.

Administrative Recommendation(s):

Information only.

**Gifts, Grants, and Bequests
November 14, 2022**

Source of Other Revenue/In Kind Donations	Type	Amount/ Value	Date	District, Campus, or Program	Intended Use
Temple Area Builders Association	Check	\$4,675	10/4/2022	BHS-CTE Construction	Construction Class-CTE
Mark Richner	In-kind	\$500	9/29/2022	BHS-CTE AG	Student Projects-Lock Joint Tube
First Assembly of God-Belton	Check	\$250	10/25/2022	BHS/NHS	Trunk or Treat
Belton Church of Christ	Check	\$1,000	10/31/2022	Leon Heights Elem.	Outdoor Plants
Athletic Booster Club	Check	\$700	10/11/2022	LBHS Athletics	Equip for softball
James A Hankins	Check	\$25	10/7/2022	LBHS	LBHS Band
B.R. Phillips	Check	\$100	10/7/2022	LBHS	LBHS Band
Linda Hankins DVM	Check	\$50	10/7/2022	LBHS	LBHS Band
Athletic Booster Club	Check	\$2,117	10/11/2022	LBHS Athletics	Equip for Tennis
Athletic Booster Club	Check	\$6,318	10/11/2022	LBHS Athletics	Equip for weight room
Belton Church of Christ	Check	\$1,628	10/13/2022	Leon Heights Elem.	Field Trips and Counselor Supplies

Belton Independent School District
Board of Trustee Meeting Agenda Item
November 14, 2022

Item: Budget Amendment #2 for 2022-2023

Contact Person: Melissa Lafferty

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

Background Information:

The TEA Financial Accountability System Resource Guide sets forth guidelines on budget amendments. Budget amendments are required by the State to reclassify appropriations at the level at which the budget is adopted. Belton ISD adopts budgets for the required funds at the functional level. Amendments which reclassify appropriations from one functional level to another should be approved by the Board. The budget may also be amended by the Board for changes in the level of its Revenue and Expenditures, CE(Legal/Local). Amendments are recorded in the District's Board minutes.

Budget amendments are presented monthly, as needed. Changes are described below.

Fiscal Implications:

General Fund

Expenditures

- **Instruction (11): (\$13,390)**
 - (\$10,890): Redistribute for additional teacher training for EL Achieve
 - (\$2,500): Redistribute funds for additional library books and security costs
- **Library & Media Services (12): \$1,500**
 - \$1,500: Purchase additional library books
- **Curriculum & Staff Development (13): \$20,890**
 - \$10,890: Additional teacher training for EL Achieve
 - \$10,000: Additional contract services costs
- **Instructional Leadership (21): (\$10,000)**
 - (\$10,000): Redistribute for additional contract services costs
- **Security and Monitoring (52): \$1,000**
 - \$1,000: Additional security costs

The net effect of these expenditure amendments is zero to the fund balance.

Administrative Recommendation(s):

Approve amendments as presented.

2022-23 Budget Amendment Proposed For Adoption By The Board Of Trustees
Belton ISD - November 14, 2022

Function	General Fund			
	Original Adopted Budget	Previously Amended Budget	Summary of Proposed Amendments	Proposed Amended Budget
REVENUES				
Local	\$ 52,628,055	\$ 52,638,055	-	\$ 52,638,055
State	82,415,364	82,415,364	-	82,415,364
Federal	2,500,000	2,500,000	-	2,500,000
	137,543,419	137,553,419	-	137,553,419
EXPENDITURES				
11 Instruction	77,884,889	77,894,889	(13,390)	77,881,499
12 Library & Media Services	1,635,994	1,635,994	1,500	1,637,494
13 Curriculum & Staff Development	4,639,524	4,639,524	20,890	4,660,414
21 Instructional Leadership	2,396,245	2,396,245	(10,000)	2,386,245
23 School Leadership	8,452,199	8,452,199	-	8,452,199
31 Guidance and Counseling Services	6,387,087	6,387,087	-	6,387,087
32 Social Work Services	176,983	176,983	-	176,983
33 Health Services	2,291,027	2,291,027	-	2,291,027
34 Student Transportation	5,562,309	5,562,309	-	5,562,309
35 School Nutrition	-	-	-	-
36 Co-curricular Activities	6,342,989	6,341,489	-	6,341,489
41 General Administration	4,341,086	4,341,086	-	4,341,086
51 Facilities Maintenance & Operations	14,488,859	14,488,859	-	14,488,859
52 Security and Monitoring	1,959,266	1,960,766	1,000	1,961,766
53 Data Processing Services	4,265,810	4,265,810	-	4,265,810
61 Community Services	5,000	5,000	-	5,000
71 Debt Service	-	-	-	-
81 Facilities Acquisition & Construction	-	-	-	-
93 Payments to fiscal agent	-	-	-	-
95 Payments to JJAEP	15,000	15,000	-	15,000
97 Tax Increment	250,000	250,000	-	250,000
99 Other Intergovernmental Charges	662,818	662,818	-	662,818
Total Expenditures	141,757,085	141,767,085	-	141,767,085
Revenues Over (Under) Expenditures	(4,213,666)	(4,213,666)	-	(4,213,666)
Other Resources	-	-	-	-
Other Uses	-	-	-	-
Budgeted/Estimated Change in Fund Balance	\$ (4,213,666)	\$ (4,213,666)	\$ -	\$ (4,213,666)

Budget amendments for these funds are required to be adopted by the Board of Trustees.

Belton Independent School District
Board of Trustee Meeting Agenda Item

November 14, 2022

Item: Expenditures over \$50,000

Contact Person: Melissa Lafferty

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

Background Information:

Board Policy CH(LOCAL) requires that any single, budgeted purchase of goods or services that costs \$50,000 or more shall require Board approval before a transaction may take place. The following list of proposed purchases is submitted for your consideration:

Apple for Staff Device Refresh

The District refreshes devices annually according to an IT replacement schedule. The Apple quote covers MacBooks for staff and Apple accessories. The cost is \$54,176 and the vendor is on the state's DIR contract. Funds for this expenditure have been allocated in the general fund budget.

Fiscal Implications:

Apple will be paid with funds allocated in the 2022-2023 general fund budget.

Administrative Recommendation(s):

Approve the requested expenditures.

Belton Independent School District
Board of Trustee Meeting Agenda Item

November 14, 2022

Item: RFP #2209-775-291 for Refrigerated Delivery Truck

Contact Person: Tammy Shannon

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

Background Information:

RFP #2209-775-291 for a Refrigerated Delivery Truck was published on September 25, 2022. One proposal was received from Southwest International Trucks. This procurement was conducted in accordance with Title 2 of the Code of Federal Regulations (2CFR) Part 200, United States Department of Agriculture (USDA) and Texas Department of Agriculture (TDA). Pursuant to Section 2252.908 of Government Code, HB 1295 forms have been received and acknowledged on the Texas Ethics Commission website.

The Administration recommends the Board approve the proposal submitted by Southwest International Trucks in the amount not to exceed \$161,300.

Fiscal Implications:

The funds for the Refrigerated Delivery Truck have been approved by the Texas Department of Agriculture and will be purchased from the School Nutrition Fund budget.

Administrative Recommendation(s):

Approve the purchase of the Refrigerated Delivery Truck from Southwest International Trucks.

Southwest International Trucks	
Total Price	\$146,547.52

Line #	Description	Mfgr	Mfgno	QTY	UOM	Estimated	Unit	Extended
1	Refrigerated Delivery Truck, per bid specifications. Pricing shall include any and all fees to include labor, material, warranties, taxes (excluding sales tax). Prices are to be firm, FIXED PRICES. Price shall be FOB destination (Belton ISD).	International	4300	1	EA		<u>\$146,288.52</u>	\$146,288.52
2	Delivery Fee- Please list any associated fees for the delivery of the vehicle to Belton ISD to the following address: 1100 Industrial Blvd., Belton, TX 76513			1	EA		<u>\$259.00</u>	\$259.00
3	Please list cost to add two (2) additional keys.			1	EA		\$0.00	\$0.00
4	Additional Fees Not Addressed.			1	EA		\$0.00	\$0.00

1	Chassis	International MV607						
2	Truck Body	Morgan body, model# GVSR10318102						
3	Lift Gate	Maxon GPC3300						
4	Lead Time	12-18 months						
	Fees	BuyBoard fee and all factory surcharges are accounted for as of 10/20/22. Note: Price is subject to further increases due to long lead times.						

Belton Independent School District
Board of Trustee Meeting Agenda Item

November 14, 2022

Item: RFP #2208-175-290 for Awards, Trophies, Plaques and Related Items (Supplemental I)

Contact Person: Tammy Shannon

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

Background Information:

RFP #2208-175-290, Awards, Trophies, Plaques and Related Items (Supplemental I) was posted on August 22, 2022. This proposal allows the purchase of goods and services on an as-needed basis. Pursuant to Section 2252.908 of Government Code, HB 1295 forms have been received and will be acknowledged on the Texas Ethics Commission website.

Fiscal Implications:

The funds for Awards, Trophies, Plaques and Related Items are allocated in the annual budget.

Administrative Recommendation(s):

Approve the vendor list for Awards, Trophies, Plaques and Related Items. This contract will be effective from November 15, 2022 through September 30, 2023 and will automatically renew for four (4) years, one (1) year at a time.

Awards, Trophies, Plaques and Related Items (Supplemental I)
RFP #2208-175-290

Bright Printing School Division
Centex Recognition
Educational Outfitters
House of Ribbons
PepWear, LLC
Progressive Marketing
Southwest Emblem Company
The Master Teacher, Inc.
TNT Awards

Belton Independent School District

Board of Trustee Meeting Agenda Item

November 14, 2022

Item: Acceptance and Close Out of the Lake Belton High School Project and Approval of Final Payment

Contact Person: Melissa Lafferty

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 1: Strengthen and support the engagement of all stakeholders in the pursuit of the BISD vision.

Background Information:

Board policy CV(LOCAL) provides that the District shall not make final payments for construction or supervision of construction until the work has been completed and the Board has accepted the work.

At the May 15, 2017, Regular Board Meeting, the Board approved the District's recommendation to select Bartlett Cocke, LLC as the best value proposer, and authorized the Superintendent to negotiate and execute a contract on behalf of the District. The contract for the Lake Belton High School Project totaled \$106,413,538. The contract was completely fulfilled and closed out with the construction of baseball and softball bleachers in the amount of \$323,128.

Change orders decreased the total contract amount by \$1,270,717 to \$105,142,821. The final payment of \$16,209.35 was paid to Bartlett Cocke on March 24, 2022. Administration overlooked the close out approval and is requesting final approval from the Board.

The Certificate of Substantial Completion dated July 24, 2020, was executed by the contractor, architect and owner. The Certificate of Occupancy was received and also dated July 24, 2020. Close out documents, warranties, lien waivers, consent of surety for final payment, the Operations Maintenance Manual, and the final pay application have been received and paid in full.

Fiscal Implications:

The project was funded through 2017 bond funds.

Administrative Recommendation(s):

Recommend acceptance and close out of the Lake Belton High School Project and release of final payment of \$16,209.35.

Belton Independent School District
Board of Trustee Meeting Agenda Item

November 14, 2022

Item: Contract with American Constructors for Construction Manager at-Risk Services for Elementary School #13

Contact Person: Michael Morgan

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

Background Information:

At the Board’s regularly scheduled meeting in July 2022, the Board approved American Constructors as the general contractor for RFP #2206-905-286 for Construction Manager at-Risk (CMAR) Services for Elementary School #13.

This is a standard form of agreement between Owner and Construction Manager for the designated project.

Fiscal Implications:

All appropriate fees and costs will be paid from 2022 bond funds.

Administrative Recommendation(s):

Execute the CMAR Contract with American Constructors.

 **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 Fifth day of October in the year 2022
(In words, indicate day, month, and year.)

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

Belton Independent School District
1220 Huey Drive
Belton, Texas 76513

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

American Constructors, LLC dba American Constructors
11900 West Parmer, Suite 200
Cedar Park, Texas 78613

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

Belton ISD – Elementary No 13

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

Huckabee & Associates, Inc.
801 Cherry Street, Suite 500
Fort Worth, Texas 76102

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:

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

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User Notes:

(1767262561)

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 (if executed)

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.)

To be determined by Owner

§ 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.)

To be determined

§ 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.)

\$36,000,000

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

.1 Design phase milestone dates, if any:

.2 Construction commencement date:

.3 Substantial Completion date or dates:

June 2024

.4 Other milestone dates:

(Paragraphs deleted)

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere.)

None

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

(List name, address, and other contact information.)

Owner's Board of Trustees, acting as a body corporate

§ 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.)

Owner's Superintendent or designee(s).

(Paragraphs deleted)

§ 1.1.11 The Architect's representative:

(List name, address, and other contact information.)

Mike Boyle, AIA

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:

(List name, address, and other contact information.)

Joe Charlton

Chief Operating Officer

§ 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.)

To be determined by Owner

(Paragraphs deleted)

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

None

(Paragraph deleted)

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

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, the A201 General Conditions specifically referenced herein, Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. 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.

§ 2.2 Relationship of the Parties

The Construction Manager accepts and owes to Owner a fiduciary duty, and further 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 furnish efficient construction administration, management services, and supervision; 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. Owner shall be entitled to rely on the information provided by Construction Manager in connection with the Construction Manager's construction administration and management services. 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 Construction Manager agrees that 1) because it owes the Owner a duty of trust and confidence and 2) because of the covenants it has made to the Owner in this Agreement, Construction Manager would be violating its duty of trust and confidence to the Owner to agree to pursue claims or causes of action against the Owner on behalf of any other party, including but not limited to, any contractor, subcontractor, trade contractor or any other person or entity whatsoever. Construction Manager shall not make any agreement, written or otherwise, with any contractor, subcontractor, trade contractor or any other person or entity whatsoever to assert claims or causes of action in any event against the Owner. Should the Construction Manager make any agreement to assert any claims or causes of action on behalf of any other person or entity against the Owner, Construction Manager has breached its duty of trust and confidence, including its duty of utmost good faith, duty to be fair and equitable to Owner, duty to make reasonable use of the confidence Owner placed in it, duty to place Owner's interests before its own and not self-deal, and its duty to fully and fairly disclose all important information concerning the above-referenced Project.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, as amended, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; 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 as amended shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2017 as amended, which document is incorporated herein by reference. The term "Contractor" as used in A201-2017 as amended 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 Owner and Construction Manager may agree, in consultation with the

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Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. 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 provide complete and accurate 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 Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. Except as required by the Construction Manager's duty to exercise reasonable care or by any part of the Contract Documents, 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 in writing any nonconformity discovered by or made known to the Construction Manager and also 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.

§ 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; 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. The Construction Manager shall also review and 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.

§ 3.1.3.3 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, as negotiated with terms acceptable to Owner and executed by the Parties, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 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; and the occupancy requirements of the Owner. If preliminary Project schedule updates indicate that previously approved schedules may not be met, the Construction Manager shall make appropriate recommendations in writing to the Owner and Architect.

§ 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, availability of labor and materials, time of performance, 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.

§ 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 written 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 Prior to the commencement of the Schematic Design, Design Development and Construction Documents phases, the Construction Manager shall prepare and submit for the Architect's review and Owner's written approval a written project schedule and written 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 Construction Manager shall inform the Owner and Architect in writing in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, describe the reasons therefor, and make written recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services, 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 written recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide written 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 written 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, as negotiated with terms acceptable to the Owner and attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 The Construction Manager shall provide a written subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' 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 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, then, upon the establishment of the Guaranteed

Maximum Price, the Owner may elect to assign all contracts for these items to the Construction Manager and the Construction Manager shall accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes (including, but not limited to, building and fire codes), rules and regulations, Owner's policies, and all applicable law 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.)

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and prior to advertising or solicitation of sub-contract proposals, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. 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 Contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 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; the clarifications and assumptions shall not delete or mitigate in any way any of the Construction Manager's duties or the Owner's rights under this Agreement and the applicable A201 General Conditions and shall not be treated as an amendment of this Agreement or the applicable A201 General Conditions; additionally, the Construction Manager shall notify the Owner and Architect in writing of any inconsistencies between the proposed assumptions and clarifications contained in the Guaranteed Maximum Price Proposal and the Contract Documents;
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; and the Construction Manager's Fee; and
4. The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based.

§ 3.2.3.5 If the Construction Manager includes in its Guaranteed Maximum Price proposal any terms, whether in the Assumptions and Clarifications or in any attachment or requirement of the Guaranteed Maximum Price proposal, which purport to modify the duties, rights, or privileges of either Party under this Agreement or the A201 General Conditions as amended, or otherwise require such a modification, the Construction Manager must: (1) list with each proposed term the section or sections of this Agreement or the A201 General Conditions that would be modified by the proposed term, and (2) provide notice to the Owner in a separate written letter that (a) the Construction Manager proposes to modify the terms of this Agreement and/or the A201 General Conditions through the Guaranteed Maximum Price proposal, and (b) the Owner should have its legal counsel review the proposed changes prior to the Owner's acceptance of the Guaranteed Maximum Price proposal.

If the Construction Manager does not comply with the requirements of this Section 3.2.3.5, the Owner shall be entitled to accept the pricing provided by the Construction Manager in its Guaranteed Maximum Price proposal without

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modification to this Agreement or the A201 General Conditions. Failure to notify the Owner under this section shall be considered a breach of the Construction Manager's fiduciary duty to the Owner.

Furthermore, the Owner's acceptance of a Guaranteed Maximum Price proposal does not obligate the Owner to make any modifications to this Agreement or A201 General Conditions nor entitle the Construction Manager to rely on the proposed modifications unless they have been incorporated into the Guaranteed Maximum Price Amendment executed by the Parties with specific reference to this Section 3.2.3.5 and the section or sections affected by the modification.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a separately-identified the "Construction Contingency," for use in accordance with this section. Any use of the Construction Contingency is subject to the Owner's right to approve or disapprove of any particular use. 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 (subject to Owner approval), 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, but only to the extent such costs are within the Cost of the Work. 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 were not reasonably inferable from the Guaranteed Maximum Price documents, the correction of minor defects relating to design, delays in receipt of materials. The Construction Manager, with the Owner's written approval, may utilize the Construction Contingency solely for any of the above items that are 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. 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. Construction Manager shall notify the Owner and Architect, and request their approval, of every expenditure from the Construction Contingency no later than 15 days from the date it recognizes the need for the expenditure. Failure to comply with this timeline constitutes a waiver by Construction Manager of reimbursement for an expenditure. Notwithstanding anything in this section, Owner may withhold approval of use of the Construction Manager's Contingency if (1) the proposed expenditure arises from the negligence or other fault of the Construction Manager, a subcontractor, or anyone else for whom the Construction Manager is responsible; (2) the proposed expenditure is not reimbursable as a Cost of the Work or is otherwise disallowed under the Contract Documents; or (3) other good cause as determined by the Architect or the Owner.

§ 3.2.4.1 The Guaranteed Maximum Price proposal may 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 sole discretion of Owner. Any unused Owner's Contingency shall accrue to the Owner. Construction Manager has no contractual right to require that Owner make any expenditure from the Owner's Contingency.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal and the written statement of its basis. 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. However, such review by Owner and Architect is not a guarantee or warranty of the accuracy of the Guaranteed Maximum Price.

§ 3.2.6 The Owner's Board of Trustees shall be allowed not less than 30 days to consider the Guaranteed Maximum Price Proposal. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager 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, the Specifications, Drawings, and other Contract Documents, and the required date for Substantial Completion. Owner retains the absolute right not to accept any Guaranteed Maximum Price proposal and otherwise to elect not to proceed to the construction phase under this Agreement.

§ 3.2.7 The Construction Manager shall not enter into a subcontract or 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.

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§ 3.2.8 The Construction Manager shall notify the Owner and Architect in writing of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the Contract Documents.

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

§ 3.2.9 The Guaranteed Maximum Price Proposal will include the following: To the extent that the costs of the items listed in this section are reimbursable under this Agreement, the Construction Manager agrees that the total of such costs will not exceed 4.1% of the remaining Cost of the Work (exclusive of the items listed in this section). Construction Manager shall be responsible for all costs exceeding this limit. This section is not intended to stipulate an amount payable for the items listed in this section, but, rather, to limit the maximum amount that may be reimbursed for these items. All Cost of the Work items, including, but not limited to, those listed in this section, are reimbursable amounts that must be documented and proven, along with all other requirements set out in this Agreement. This section applies to the following items:

Project Personnel
Move-In / Move-Out Office
Monthly Office Trailer Rental
Monthly Office Supplies
Office Furniture
Computers / 365 / Software
Personal Telephone / Radios
Fax/Copier/Printer/Supplies
Postage/Shipping
Water/Coffee - Job Office
Office Dumpster
Site Office Cleanup/Janitorial
Site Office Telephone / Internet Install
IT Systems / Support / Monthly Internet
Telephone/Fax Lines - Site Office
Electricity - Site Office
Water Usage - Site Office
Holding Tank - Site Office
Photos/Video/Aerials
Project Sign
First Aid Supplies
Safety Inspections
General Liability Insurance
Payment and Performance Bond
Builders Risk Insurance

§ 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.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.1.3 Construction Manager shall not perform any portions of the Work unless (1) such services are for supervisory or administrative personnel described in Section 7.2, (2) such services are described in Sections 7.5, 7.6, or 7.7, or (3) it has been awarded such portion in accordance with the same procedures imposed upon all other trade contractors, and then, only if the Owner has determined that the Construction Manager's bid or proposal provides the best value for the Owner.

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§ 3.3.1.3.1 All subcontracts for the Project shall be awarded in accordance with the Texas Government Code, Chapter 2269, Subchapter F and the requirements of this Agreement. In addition to other reasonable procedures and methods, the Construction Manager shall also do the following for procuring subcontracts:

- .1 The Construction Manager shall publicly advertise for bids or proposals by publishing in a newspaper published in the county in which the Owner's central administrative office is located a notice soliciting bids or proposals. Such notice must be published once a week for at least two weeks before the deadline to submit. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the Owner's central administrative office is located.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct weekly or otherwise regularly scheduled meetings with the Owner, Architect, and appropriate subcontractors to 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.

§ 3.3.2.2 Promptly upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect an updated construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017 (as amended), including 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 throughout the course of the Work, 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 and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances in writing 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.

§ 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, upon written request of the Construction Manager, shall provide to the Construction Manager or shall ask the Architect or other appropriate consultant to provide to the Construction Manager, as soon as practically possible, such information in its possession or in the possession of the Architect or other consultant regarding the requirements of the Project, the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements, when such information is required in order for the Construction Manager to fulfill its responsibilities under this Agreement.

(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.

§ 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 test, surveys, and reports are provided for information only and are not warranted or represented to show the conditions at the Project site accurately. Construction Manager's use of the information at its own risk and Construction Manager 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 exercise reasonable care so as to avoid damaging any utility lines, cables, pipes, or pipelines on the Property. Construction Manager 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 and as otherwise agreed to by the parties in writing, 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 describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site when such services are requested by the Construction Manager in writing and such services are reasonably required to complete the Project in a manner consistent with good workmanship. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested in writing by the Construction Manager and such services are reasonably required to complete the Project in a manner consistent with good workmanship, 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 upon written request by the Construction Manager. The Owner shall 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 written request for such information or services.

(Paragraph deleted)

§ 4.2 Owner's Designated Representative

The Owner may identify a representative authorized to act on behalf of the Owner with respect to the Project to the extent permitted by law and Owner's board policy and to the extent authorized by formal action by the Board of Trustees. The Owner's representative, if one is formally designated, shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as

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otherwise provided in Section 4.2.1 of A201–2017, as amended, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative, if any. The Owner's Board of Trustees retains final approval authority over all Change Orders.

(Paragraphs deleted)

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.)

\$20,000

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

§ 5.2 Payments

§ 5.2.1 Payments shall be made following the Construction Manager's presentation of an Application for Payment and approval and certification by the Architect of such application (or of a portion of such Application), subject to Owner's right to request a rescission or amendment of the Architect's certification, and further subject to any right Owner may have under the Contract Documents to withhold or otherwise reduce payment. Construction Manager's Applications for Payment must be proportional to services actually performed.

§ 5.2.2 Payments are due and payable as provided by law.

§ 5.2.3 The obligations of the Construction Manager under Article 10 shall apply to the Preconstruction Phase services. Each monthly invoice shall be supported by appropriate documentation, and the Construction manager shall supply such evidence as Owner or Architect may reasonably require to substantiate the compensation claimed.

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 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.

§ 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.)

Two and Six-Tenths Percent (2.6%) of the Cost of the Work

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

None.

§ 6.1.4 Limitations, if any, on a subcontractor's overhead and profit for increases in the cost of its portion of the Work that are included in a Change Order or Construction Change Directive:

Overhead and profit shall not exceed 10% of the cost increase reflected in the Change Order or Construction Change Directive.

§ 6.1.5 The Construction Manager, along with the Guaranteed Maximum Price Proposal, shall submit its rental rates for Construction Manager-owned equipment. Compensation for these items shall not exceed the lower of (1) the standard rate paid at the place of the Project, or (2) the rates provided in the Guaranteed Maximum Price Proposal.

§ 6.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

Owner and Construction Manager recognize that time is of the essence in the Agreement and that the Owner will suffer financial loss if the Work is not completed within the time specified in the Guaranteed Maximum Price Amendment. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed within such time.

Accordingly, in the event the Construction Manager fails to achieve Substantial Completion of the Work by the agreed date, the Owner shall be entitled to liquidated damages in the amount of \$1,500 per day until the Work is substantially completed. In the event the Construction Manager fails to achieve Final Completion of the Work by the agreed date, the Owner shall be entitled to liquidated damages in the amount of \$500 per day until the Work is finally completed. In the event that the parties establish multiple required dates of Substantial Completion, these liquidated damages provisions apply independently to each required date of Substantial Completion and Final Completion. Unless the Guaranteed Maximum Price Amendment explicitly states otherwise, the Construction Manager shall achieve final completion of the Project no later than ninety (90) days from the date Substantial Completion.

It is expressly understood that these amounts are agreed upon as a fair estimate of the pecuniary damages that the Owner will incur if the Work is not completed within the agreed time. These amounts shall be considered as liquidated damages only, the exact ascertainment of which is difficult, and in no sense shall be considered a penalty.

The parties agree that the damages that the Owner would suffer due to the Construction Manager's failure to meet the necessary timelines are difficult to estimate. Each party represents that, as of the date of this Agreement, it believes the liquidated damages identified in this section to be a reasonable estimate of the damages that the Owner would suffer due to the Construction Manager's failure to meet the necessary timelines, and the Construction Manager acknowledges that such representation on its part is a substantial inducement to Owner's agreement with the terms of this Agreement.

The parties agree that the Owner may withhold any accrued liquidated damages at any time and from any payment that otherwise may be due to the Construction Manager. The parties further agree that the sum of all liquidated damages under this section shall also be deemed a credit against amounts owed by Owner to Construction Manager.

§ 6.1.7 Other:

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

If the Construction Manager completes the performance of the Work for less than the Guaranteed Maximum Price, the difference between (i) the total aggregate sum of the actual Cost of the Work plus the Construction Manager's fee and (ii) the Guaranteed Maximum Price shall inure in its entirety to the Owner's benefit.

§ 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. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner 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.

§ 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.

§ 6.3.2 Adjustments 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.

§ 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 amended, 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 as amended 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 In the case of changes in the Work, the Construction Manager's Fee will be adjusted as provided for in Section 6.1.3, if the Construction Manager, Owner, and Architect agree that the scope of services has changed significantly. If, however, these parties cannot agree that the scope of services has changed significantly, the Construction Manager's Fee shall not be adjusted.

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 costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost. If Construction Manager fails to do so, it waives any right to reimbursement of such costs.

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

§ 7.1.4 The Cost of Work shall not include costs incurred because of the negligence, breach of contract, or other misconduct of the Construction Manager or of any subcontractor. All cost items qualifying for reimbursement under this Article 7 as included in the Cost of the Work shall be included in the Guaranteed Maximum Price.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior written approval, at off-site workshops.

§ 7.2.1.1 To the extent allowed by law, the Construction Manager may seek to perform portions of the Work itself by submitting a bid or proposal for those portions of the Work in the same manner as all other trade contractors or subcontractors (such work is referred to in this section as "Self-Performed Work"), subject to the following provisions:

1. Self-Performed Work is payable on a "cost"-plus-"fee" basis subject to an agreed-upon guaranteed maximum price, as follows:
 - (i) The "cost" is defined as costs for the following items, but only to the extent they are properly reimbursable as Cost of the Work under this Agreement: labor performed with Construction Manager's own forces, labor burden, materials, and equipment.
 - (ii) The "fee" is defined as an amount no more than 7.5% of the "cost." The "fee" defined in this Section 7.2.1.1(ii) solely applies to the "cost" under Section 7.2.1.1(i), and in no circumstances can it be applied as the fee for Work properly categorized as "Subcontract Costs" under Section 7.3.
2. The Construction Manager's bid or proposal shall reflect the requirements of this section and shall specify a guaranteed maximum amount for the Self-Performed Work. The Owner's obligation to reimburse for Self-Performed Work shall not exceed the specified and agreed-upon guaranteed maximum price for such Self-Performed Work.
3. All savings arising from Self-Performed Work shall be applied to reduce the Guaranteed Maximum Price of this Agreement.
4. For purposes of defining Self-Performed Work, any division of Construction Manager, or any separate contractor or subcontractor that is partially owned or wholly owned by the Construction Manager, or any of Construction Manager's parent companies, employees, or employee's relatives will be considered a related party entity and any work performed by such entity will be considered Self-Performed Work by the Construction Manager.
5. No Self-Performed Work will be allowed to be performed on a lump-sum basis.

6. If the Construction Manager does not self-perform the majority of the scope of Self-Performed Work and as a result subcontracts a significant portion of the scope of work to another trade contractor, then no self-performed work fees will apply to the cost of any such work.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior written approval.

(Paragraphs deleted)

§ 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.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for payroll taxes, but not any taxes for which the Owner is exempt by virtue of its status as a governmental entity, insurance as required by the Contract Documents, 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.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall not increase 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 and this Agreement. To the extent that the Construction Manager is allowed by law and by the Contract Documents to perform work with its own forces, the parties agree that those costs will not be considered Subcontract Costs under this Section 7.3, but, rather, are subject to reimbursement to the extent provided elsewhere in this Article 7.

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

§ 7.4.1 Costs, including transportation and 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 Costs of transportation, storage, 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 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior written approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies necessary for the performance of the Work.

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§ 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 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

(Paragraphs deleted)

§ 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.

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

(Paragraphs deleted)

§ 7.6.7 Reasonable costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes directly resulting from the Owner's actions.

(Paragraphs deleted)

§ 7.7 Other Costs and Emergencies

(Paragraph deleted)

§ 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 as amended.

(Paragraphs deleted)

§ 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 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 explicitly specified above;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any subcontractor or vendor;
- .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;

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- .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 that would cause the Guaranteed Maximum Price to be exceeded;
- .9 Costs for services incurred during the Preconstruction Phase;
- .10 Costs incurred because of the negligence, breach of contract, or other misconduct of the Construction Manager or any subcontractor;
- .11 Delay damages or claims, including but not limited to acceleration costs; and
- .12 Storage costs, unless with prior written approval of the Owner.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts, 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 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 furnish to Owner and Architect for the Owner's approval prior to any public advertisement or solicitation for the portion of the Work, the evaluation criteria that the Construction Manager proposes to use in recommending qualified trade contractors or subcontractors for each portion of the Work that will provide the best value for the Owner. After acceptance of the GMP proposal, 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. All subcontracts for the Project shall be awarded in accordance with the Texas Government Code, Chapter 2267, Subchapter F.

§ 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; (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, and (4) offers the best value to the Owner, then the Construction Manager may request 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 The Construction Manager shall include the following specific notices in the information to proposers, along with any other notices required by law:

- .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; and
- .4 The notice regarding trench and shoring safety required by Texas Health and Safety Code Section 756.023.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Project, 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 shall 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 final payment, or for such longer period as may be required by law.

All records shall be maintained in accordance with generally accepted accounting principles and procedures, consistently applied. Subcontractors retained by the Construction Manager on a cost-plus basis shall have the same obligations to retain records and cooperate with audits as are required of the Construction Manager under this Article 10.

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, subject to Owner's right to request a rescission or amendment of the Architect's certification, and further subject to any right Owner may have under the Contract Documents to withhold or otherwise reduce payment. .

§ 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 Architect will, within seven days after receipt of the Construction Manager's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Construction Manager, for such amount as the Architect determines is properly due, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Paragraph 9.5 of the AIA Document A201-2017, as amended by the parties. Owner shall make payment for amounts properly due pursuant to the requirements of the law. Notwithstanding such certification for payment by the Architect however, Owner shall be entitled to withhold payment to such extent as may be necessary in the Owner's opinion, reasonably supported, to protect the Owner from loss for which the Construction Manager is responsible, including loss of the reasons listed in 9.5.1 of the AIA Document A201-2017, as amended. Such withholding of such payment by owner shall not be deemed a breach of the Contract Documents nor a failure to make timely payment.

§ 11.1.4 With each Application for Payment, the Construction Manager shall, upon request from Owner, 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. Additionally, with each Application for Payment, the Construction Manager shall submit a "buyout report" that accurately reflects the status (including monetary amounts) of all contracts entered into by the Construction Manager for performance of the Work.

§ 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 shall allocate the entire Guaranteed

Maximum Price among: (1) the various portions 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.

§ 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 may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 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 and Owner.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. 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) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 as amended 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 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 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 as amended;
- .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 in such documentation;
- .6 Retainage withheld pursuant to Section 11.1.8; and
- .7 Liquidated damages as provided in this Agreement, except that Owner may elect to subtract such amounts from any subsequent pay application.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Final 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.)

Five percent (5%)

§ 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.)

None.

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be 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.)

None.

(Paragraphs deleted)

§ 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.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In submitting the Construction Manager's Applications for Payment the Construction Manager shall be responsible for all errors and omissions.

§ 11.1.13 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.

§ 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, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, as amended, and to satisfy other requirements, if any, which 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 personnel; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2 and approved by the Owner.

§ 11.2.2 Within 30 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. It is the Construction Manager's responsibility to ensure that the final accounting it submits is full and complete. Owner may deduct from any payment otherwise owed to Construction Manager any amount that Owner or Owner's auditor determines is not supported by the Construction Manager's final accounting. Additionally, any amount paid by the Owner in excess of that required by this Agreement shall be, at Owner's election, either withheld from any payment otherwise due to Construction Manager, or returned by Construction Manager within seven days of the date Construction Manager becomes aware of such overpayment.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 30 days after completion of the audit, submit a written report based upon the auditors' 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 agents or representatives of the Owner's 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 request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017, as amended. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors or other agents or representatives of the Owner becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall, subject to all of the Owner's rights to withhold payment or otherwise deduct amounts, 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 issuance of the Architect's final Certificate for Payment, or as otherwise allowed by law.

(Paragraph deleted)

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest

(Paragraphs deleted)

as provided by law.

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. The Claims process set forth in this Article 12 and in Article 15 of the applicable A201 shall constitute an independent "contractual adjudication procedure" as that term is used in Texas Local Government Code Chapter 271 Subchapter I.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017

(Paragraphs deleted)

as amended.

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017 as amended, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

N/A

Litigation in a court of competent jurisdiction, subject to any other requirements that may need to be satisfied prior to the commencement of litigation.

N/A

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.

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§ 12.3. Contractual Adjudication Procedure for all Claims and Disputes

- .1 The requirements of this Section 12.3 shall constitute an independent "contractual adjudication procedure" as that term is used in Texas Local Government Code Chapter 271 Subchapter I.
- .2 **Pre-Litigation Grievance and Mediation.** Any claim, dispute or other matter in question that Construction Manager has against Owner shall be subject to full exhaustion of the grievance procedure found in Owner's GF (LOCAL) policy and non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by Construction Manager. In the case of any such claim, dispute, or other matter, by the Construction Manager against the Owner, including, but not limited to, any claim that the Owner has breached a contract, the Construction Manager may not file a lawsuit or demand mediation until the complaint procedure found in Owner's GF (LOCAL) policy has been fully exhausted regarding the contested matter. A copy of this policy is attached hereto and incorporated herein as Exhibit A-1. The Construction Manager's failure to timely file a grievance under policy GF (LOCAL), meet any requirement of this Article 12, or otherwise fully exhaust policy GF (LOCAL) in accordance with the policy's requirements is a failure to adhere to contractual adjudication procedures, a failure to exhaust remedies, a failure to fulfill conditions precedent, constitutes waiver, and is a bar to suit against the Owner.
 - a. The timelines under Policy GF (LOCAL) are amended for purposes of this Agreement as follows: Construction Manager's complaint must be reduced to writing and filed within ninety (90) calendar days of the date the Construction Manager first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint. If the Construction Manager fails to meet this timeline, the Construction Manager will have failed to exhaust this remedy, will have failed to adhere to this contractual adjudication procedure, will have failed to fulfill conditions precedent to suit, will have waived the complaint, and will be barred from suing the Owner.
 - b. Construction Manager agrees that, in order to fully exhaust its remedies under policy GF (LOCAL) and otherwise comply with this Section 12.3, Construction Manager must identify and articulate in writing the specific factual and legal basis for its claims. Any basis that is not identified and articulated by the Construction Manager as part of its complaint under GF (LOCAL) is waived by the Construction Manager and may not be asserted in any subsequent proceeding against the Owner.
 - c. The following are each an independent condition precedent to the institution of civil proceedings by the Construction Manager against the Owner concerning the contested matter: 1) full exhaustion of claims through Owner's GF (LOCAL) policy as described herein, 2) full exhaustion of the Claims process referenced in this Agreement and the applicable A201, 3) a written demand by the Construction Manager for mediation, and 4) good faith and full participation in the mediation process.
 - d. Following the full exhaustion of claims through Owner's GF (LOCAL) procedure, and upon receipt by Owner of Construction Manager's written demand for mediation, Owner may, at its option, either proceed with non-binding mediation of the dispute, or provide written notice to Construction Manager of Owner's decision to waive its right to compel such mediation. Owner's voluntary participation in any mediation or any other settlement discussions shall not be construed as a waiver of any failure by Construction Manager to exhaust remedies, follow contractual adjudication procedures, or otherwise comply with the Contract Documents. If the parties participate in mediation, the parties shall share the mediator's fee and any filing fees equally.

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, for the Owner's convenience and without cause

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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, solely as provided in Article 5, and shall have no other recovery. 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 compensated for Preconstruction Phase services. 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 pursuant to a written agreed-upon Work Authorization Amendment, 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 performed 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 for Construction Phase services; and
- .4 Credit Owner for claims, credits, offsets, and deductions to which the Owner is entitled under the Contract Documents.

§ 13.1.6 The Owner shall also pay the Construction Manager, 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, 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;
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017; and
- .5 Credit Owner for claims, credits, offsets, and deductions to which the Owner is entitled under the Contract Documents.

§ 13.2.2.2 The Owner shall also pay the Construction Manager, 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 pay the Construction Manager a termination fee as follows:
(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.)

None.

§ 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 and Contract Time may be increased as provided in Article 14 of AIA Document A201–2017 as amended.

§ 13.4. Damages

In no event shall the Construction Manager be entitled to recover for overhead, lost profits, benefit of the bargain damages, consequential damages, lost opportunity costs, impact damages, damage to reputation, financing costs, loss of productivity, stand-by time, demobilization costs, termination costs, loss of surety bonding capacity, or other damages by reason of any termination or suspension by Owner or the Construction Manager. Construction Manager expressly waives any such claims. This Section 13.4 shall not be interpreted to support any claim for damages by the Construction Manager.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 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. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017 as amended, neither party to the Contract shall assign the Contract as a whole 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.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201–2017, as amended.

The Construction Manager shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Construction Manager’s usual source, and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum.

The Construction Manager shall deliver the required bonds to the Owner at least three days before the commencement of any Work at the Project site.

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

§ 14.5 Other provisions:

§ 14.5.1 The right to the recovery of attorney’s fees available under Texas Local Government Code Chapter 271, Subchapter I is hereby waived.

§ 14.5.3 No delay or omission by Owner in exercising any right or power accruing upon the noncompliance or failure of performance by the Construction Manager 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 of any breach by either of the parties of any covenant, condition or agreement shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

§ 14.5.6 Construction Manager shall follow, and shall require all employees, agents or subcontractors to follow all applicable ordinances of the municipality or municipalities in which the Project is located, including the tree ordinance, if applicable. If not covered by the municipal tree ordinance, Construction Manager shall barricade and protect all trees on the Project, which shall be included in the Cost of the Work.

§ 14.5.7 If Texas Family Code section 231.006 applies to this Agreement, then, 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 the 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."

§ 14.5.8 Construction Manager stipulates that Owner is a political subdivision of the State of Texas, and, as such, may enjoy immunities from suit and 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 required by law.

§ 14.5.9 This Agreement is subject to all applicable federal and state laws, rules, and regulations.

§ 14.5.10 This Section 14.5.10 only applies if Construction Manager has more than 10 full time employees and the Agreement is valued at \$100,000 or more. By executing this Agreement, Construction Manager verifies the following:

- .1 as required by Texas Government Code 2270.002: Construction Manager verifies that it does not boycott Israel and will not boycott Israel during the term of this contract.
- .2 as required by Texas Government Code 2274.002, Construction Manager verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association.
- .3 as required by Texas Government Code 2274.002, Construction Manager verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract.

§ 14.5.11. The Construction Manager agrees and stipulates that the unpaid portion of the Contract Sum (up to the Guaranteed Maximum Price established in the GMP Amendment and as subject to modification by means of a

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Modification as defined in the A201 General Conditions applicable to the Project), is the absolute maximum amount that could ever possibly be due and owing under this Agreement from Owner to Construction Manager. The Construction Manager hereby waives any claim against Owner for any amount in excess of the amount stipulated in this Section 14.5.11. The Construction Manager's agreement, stipulation, and waiver under this section are each a material inducement to Owner's agreement.

§ 14.6 Contracting Information

§ 14.6.1 This Section 14.6 applies only if, per Texas Government Code §552.371(a), (1) the Agreement has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the governmental body; or (2) the Agreement results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the Owner in a fiscal year of the Owner.

§ 14.6.2 Pursuant to Texas Government Code §552.372, the Construction Manager must:

- (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the Owner for the duration of the contract;
- (2) promptly provide to the Owner any contracting information related to the contract that is in the custody or possession of the entity on request of the Owner; and
- (3) on completion of the contract, either:
 - (a) provide at no cost to the Owner all contracting information related to the contract that is in the custody or possession of the entity; or
 - (b) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the Owner.

§ 14.6.3 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Contractor or vendor agrees that the contract can be terminated if the Contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

§ 14.6.4 "Contracting information" is defined by Texas Government Code §552.003(7) and means the following information maintained by a governmental body or sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor:

- (A) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body;
- (B) solicitation or bid documents relating to a contract with a governmental body;
- (C) communications sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;
- (D) documents, including bid tabulations, showing the criteria by which a governmental body evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and
- (E) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

§ 14.7 The Construction Manager has no right to require that any claims or disputes between it and the Owner be subject to arbitration. Construction Manager shall not seek to require Owner to participate in any arbitration proceeding. It is the parties' explicit intent that there be no mandatory arbitration for any dispute relating to this agreement or the Project.

§ 14.8 Construction Manager agrees to waive any claim it has or may have against the Owner, the Architect, and their respective employees and officers, arising out of or in connection with the administration, evaluation, or recommendation of any bid or proposal; waiver of any requirements under the procurement documents related to this Project; the Contract Documents; acceptance or rejection of any bids or proposals; and award of the Contract.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement 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 Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

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.1 This modified 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, if executed
(Paragraphs deleted)

.4 AIA Document A201™-2017, General Conditions of the Contract for Construction, as amended
(Table deleted)

.7 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Exhibit A-1 – Owner's GF (LOCAL) Board Policy

Exhibit B – Prevailing Wage Rate Schedule (see Section 3.4.1.1 of the A201 General Conditions, as amended)

Exhibit C – Form for GMP Amendment

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

OWNER *(Signature)*

(Printed name and title)

DATE



CONSTRUCTION MANAGER *(Signature)*

Joe Charlton, COO

(Printed name and title)

10/19/2022

DATE

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Belton Independent School District
Board of Trustee Meeting Agenda Item

November 14, 2022

Item: Contract with CORE Construction for Construction Manager at-Risk Services for the 2022 Building Program for the Following Bond Projects: Belton High School Additions and Renovations; Southwest Elementary School Additions; and Lake Belton Middle School Additions

Contact Person: Michael Morgan

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

Background Information:

At the Board’s regularly scheduled meeting in September 2022, the Board approved CORE Construction as the general contractor for RFP #2208-905-290 for Construction Manager at-Risk (CMAR) Services for the following bond projects: Belton High School Additions and Renovations; Southwest Elementary School Additions; and Lake Belton Middle School Additions.

This is a standard form of agreement between Owner and Construction Manager for the designated projects.

Fiscal Implications:

All appropriate fees and costs will be paid from 2022 Bond project funds.

Administrative Recommendation(s):

Execute the CMAR Contracts with CORE Construction.

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 Ninth day of November in the year 2022
(In words, indicate day, month, and year.)

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

Belton Independent School District
1220 Huey Drive
Belton, Texas 76513

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

CORE Construction
6320 Research Rd.
Frisco, Texas 75033

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

2022 Building Program - Belton High School Additions and Renovations

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

O'Connell Robertson
811 Barton Springs Road, Suite 900
Austin, Texas 78704

The Owner and Construction Manager agree as follows.

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

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 (if executed)

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.)

To be determined by Owner

§ 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.)

To be determined

§ 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.)

\$26,685,723

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

- .1 Design phase milestone dates, if any:
- .2 Construction commencement date:
- .3 Substantial Completion date or dates:
Summer 2024
- .4 Other milestone dates:

(Paragraphs deleted)

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere.)

None

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

(List name, address, and other contact information.)

Owner's Board of Trustees, acting as a body corporate

§ 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.)

Owner's Superintendent or designee(s)

(Paragraphs deleted)

§ 1.1.11 The Architect's representative:

(List name, address, and other contact information.)

Jarrold Sterzinger

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:

(List name, address, and other contact information.)

Pre-Construction Phase:

Pre-Construction Representative will be:

Steven Normand, Director of Preconstruction

6320 Research Rd.

Frisco, TX 75033

Construction Phase:

Gary Aanenson, Vice-President

CORE Construction Services of Texas, Inc.

6320 Research Rd.

Frisco, TX 75033

(972) 668-9340

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§ 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.)

To be determined by Owner

(Paragraphs deleted)

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

None

(Paragraph deleted)

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

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, the A201 General Conditions specifically referenced herein, Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. 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.

§ 2.2 Relationship of the Parties

The Construction Manager accepts and owes to Owner a fiduciary duty, and further 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 furnish efficient construction administration, management services, and supervision; 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. Owner shall be entitled to rely on the information provided by Construction Manager in connection with the Construction Manager's construction administration and management services. 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 Construction Manager agrees that 1) because it owes the Owner a duty of trust and confidence and 2) because of the covenants it has made to the Owner in this Agreement, Construction Manager would be violating its duty of trust and confidence to the Owner to agree to pursue claims or causes of action against the Owner on behalf of any other party, including but not limited to, any contractor, subcontractor, trade contractor or any other person or entity whatsoever. Construction Manager shall not make any agreement, written or otherwise, with any contractor, subcontractor, trade contractor or any other person or entity whatsoever to assert claims or causes of action in any event against the Owner. Should the Construction Manager make any agreement to assert any claims or causes of action on behalf of any other person or entity against the Owner, Construction Manager has breached its duty of trust and confidence, including its duty of utmost good faith, duty to be fair and equitable to Owner, duty to make reasonable use of the confidence Owner placed in it, duty to place Owner's interests before its own and not self-deal, and its duty to fully and fairly disclose all important information concerning the above-referenced Project.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, as amended, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; 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 as amended shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017 as amended, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 as amended 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 Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. 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 provide complete and accurate 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 Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. Except as required by the Construction Manager's duty to exercise reasonable care or by any part of the Contract Documents, 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 in writing any nonconformity discovered by or made known to the Construction Manager and also 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.

§ 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; 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. The Construction Manager shall also review and 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.

§ 3.1.3.3 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, as negotiated with terms acceptable to Owner and executed by the Parties, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 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; and the occupancy

requirements of the Owner. If preliminary Project schedule updates indicate that previously approved schedules may not be met, the Construction Manager shall make appropriate recommendations in writing to the Owner and Architect.

§ 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, availability of labor and materials, time of performance, 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.

§ 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 written 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 Prior to the commencement of the Schematic Design, Design Development and Construction Documents phases, the Construction Manager shall prepare and submit for the Architect's review and Owner's written approval a written project schedule and written 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 Construction Manager shall inform the Owner and Architect in writing in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, describe the reasons therefor, and make written recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services, 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 written recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide written 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 written 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, as negotiated with terms acceptable to the Owner and attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 The Construction Manager shall provide a written subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' 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 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, then, upon the establishment of the Guaranteed Maximum Price, the Owner may elect to assign all contracts for these items to the Construction Manager and the Construction Manager shall accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes (including, but not limited to, building and fire codes), rules and regulations, Owner's policies, and all applicable law 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.)

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. 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 Contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 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; the clarifications and assumptions shall not delete or mitigate in any way any of the Construction Manager's duties or the Owner's rights under this Agreement and the applicable A201 General Conditions and shall not be treated as an amendment of this Agreement or the applicable A201 General Conditions; additionally, the Construction Manager shall notify the Owner and Architect in writing of any inconsistencies between the proposed assumptions and clarifications contained in the Guaranteed Maximum Price Proposal and the Contract Documents;
- .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; and the Construction Manager's Fee; and
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based.

§ 3.2.3.5 If the Construction Manager includes in its Guaranteed Maximum Price proposal any terms, whether in the Assumptions and Clarifications or in any attachment or requirement of the Guaranteed Maximum Price proposal, which purport to modify the duties, rights, or privileges of either Party under this Agreement or the A201 General Conditions as amended, or otherwise require such a modification, the Construction Manager must: (1) list with each proposed term the section or sections of this Agreement or the A201 General Conditions that would be modified by the proposed term, and (2) provide notice to the Owner in a separate written letter that (a) the Construction Manager proposes to modify the terms

of this Agreement and/or the A201 General Conditions through the Guaranteed Maximum Price proposal, and (b) the Owner should have its legal counsel review the proposed changes prior to the Owner's acceptance of the Guaranteed Maximum Price proposal.

If the Construction Manager does not comply with the requirements of this Section 3.2.3.5, the Owner shall be entitled to accept the pricing provided by the Construction Manager in its Guaranteed Maximum Price proposal without modification to this Agreement or the A201 General Conditions. Failure to notify the Owner under this section shall be considered a breach of the Construction Manager's fiduciary duty to the Owner.

Furthermore, the Owner's acceptance of a Guaranteed Maximum Price proposal does not obligate the Owner to make any modifications to this Agreement or A201 General Conditions nor entitle the Construction Manager to rely on the proposed modifications unless they have been incorporated into the Guaranteed Maximum Price Amendment executed by the Parties with specific reference to this Section 3.2.3.5 and the section or sections affected by the modification.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a separately-identified the "Construction Contingency," for use in accordance with this section. Any use of the Construction Contingency is subject to the Owner's right to approve or disapprove of any particular use. 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 (subject to Owner approval), 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, but only to the extent such costs are within the Cost of the Work. 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 were not reasonably inferable from the Guaranteed Maximum Price documents, the correction of minor defects relating to design, delays in receipt of materials. The Construction Manager, with the Owner's written approval, may utilize the Construction Contingency solely for any of the above items that are 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. 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. Construction Manager shall notify the Owner and Architect, and request their approval, of every expenditure from the Construction Contingency no later than 15 days from the date it recognizes the need for the expenditure. Failure to comply with this timeline constitutes a waiver by Construction Manager of reimbursement for an expenditure. Notwithstanding anything in this section, Owner may withhold approval of use of the Construction Manager's Contingency if (1) the proposed expenditure arises from the negligence or other fault of the Construction Manager, a subcontractor, or anyone else for whom the Construction Manager is responsible; (2) the proposed expenditure is not reimbursable as a Cost of the Work or is otherwise disallowed under the Contract Documents; or (3) other good cause as determined by the Architect or by the Owner.

§ 3.2.4.1 The Guaranteed Maximum Price proposal may 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 sole discretion of Owner. Any unused Owner's Contingency shall accrue to the Owner. Construction Manager has no contractual right to require that Owner make any expenditure from the Owner's Contingency.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal and the written statement of its basis. 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. However, such review by Owner and Architect is not a guarantee or warranty of the accuracy of the Guaranteed Maximum Price.

§ 3.2.6 The Owner's Board of Trustees shall be allowed not less than 30 days to consider the Guaranteed Maximum Price Proposal. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager 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, the Specifications, Drawings, and other Contract Documents, and the required date for Substantial Completion. Owner retains the absolute right not to accept any Guaranteed Maximum Price proposal and otherwise to elect not to proceed to the construction phase under this Agreement.

§ 3.2.7 The Construction Manager shall not enter into a subcontract or 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 Construction Manager shall notify the Owner and Architect in writing of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the Contract Documents.

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

§ 3.2.9 The Guaranteed Maximum Price Proposal will include the following: To the extent that the costs of the items listed in this section are reimbursable under this Agreement, the Construction Manager agrees that the total of such costs will not exceed 5.71% of the remaining Cost of the Work (exclusive of all items listed in this section). Construction Manager shall be responsible for all costs exceeding this limit. This section is not intended to stipulate an amount payable for the items listed in this section, but, rather, to limit the maximum amount that may be reimbursed for these items. All Cost of the Work items, including, but not limited to, those listed in this section, are reimbursable amounts that must be documented and proven, along with all other requirements set out in this Agreement. This section applies to the following items:

ITEM

1.100 FIELD ADMINISTRATION

Project Director
Project Manager
Assistant PM
Project Engineer
Project Coordinator
Project Accountant
Vehicles
Travel & Per Diem

1.102 FIELD SUPERVISION

Project Superintendent
Assistant Superintendent
Quality Control Manager
Vehicles

1.120 TEMPORARY STRUCTURES

Project Office
Project Office - setup
Utilities, monthly expense
Temporary Toilet
Staging Area
Project Sign

1.130 SAFETY

Safety Supervisor
Drug Testing / Badging
Protect Floor Openings
Perimeter Protection
Fire Extinguishers
First Aid Supplies
Safety Netting
Sidewalk Tunnel
Flagman

1.146 UTILITIES

Temporary Power
Checkout Power

Temp. Power for Crane
Temporary Water
Temporary Elec to Trailer
Temporary Piping
Telephone, Internet
Cellular Phone

1.155 TEMPORARY SERVICES

Ice, cups, water
Janitor Services
Office Furnishings
Office Equipment
Postage/Express
Security Monitoring System
Blue Printing
Drone Deploy

Procure, Textura, Struction Site
Walk and Street Rental
Temporary Partitions & Enclosures
Partnering

1.300 GENERAL TRASH REMOVAL

Clean Up Crew
Dumpster (Trailer staff)
Dumpster (Trades)
Dumping Fees
Rubbish Chute

.320 FINAL CLEAN

Clean Building Area
Clean Site
Cleaning Supplies

1.600 EQUIPMENT RENTAL

Water Pump & Hoses
Tractor
Fork Lift
Lull

Temp Cab Protection
Elevator Cab Operator
Misc. Small Tools
1.630 EQUIPMENT SUPPORT
Fuel & Maintenance

1.700 INSURANCE
General Liability, Umbrella & Pollution
Payment & Performance Bonds

Within the limit specified above, the following items are subject to their own not-to-exceed amounts as specified below:

Performance and Payment Bonds: 0.67% of the remaining Cost of the Work (exclusive of all items listed in this section)
Full Time on-site Superintendent: \$3,923 per month
Full Time on-site Project Manager: \$3,702 per month
Full Time on-site Project Engineer: \$2,452 per month

§ 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.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.1.3 Construction Manager shall not perform any portions of the Work unless (1) such services are for supervisory or administrative personnel described in Section 7.2, (2) such services are described in Sections 7.5, 7.6, or 7.7, or (3) it has been awarded such portion in accordance with the same procedures imposed upon all other trade contractors, and then, only if the Owner has determined that the Construction Manager's bid or proposal provides the best value for the Owner.

§ 3.3.1.3.1 All subcontracts for the Project shall be awarded in accordance with the Texas Government Code, Chapter 2269, Subchapter F and the requirements of this Agreement. In addition to other reasonable procedures and methods, the Construction Manager shall also do the following for procuring subcontracts:

- .1 The Construction Manager shall publicly advertise for bids or proposals by publishing in a newspaper published in the county in which the Owner's central administrative office is located a notice soliciting bids or proposals. Such notice must be published once a week for at least two weeks before the deadline to submit. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the Owner's central administrative office is located.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct weekly or otherwise regularly scheduled meetings with the Owner, Architect, and appropriate subcontractors to 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.

§ 3.3.2.2 Promptly upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect an updated construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201-2017 (as amended), including 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 throughout the course of the Work, 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 and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances in writing 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.

§ 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, upon written request of the Construction Manager, shall provide to the Construction Manager or shall ask the Architect or other appropriate consultant to provide to the Construction Manager, as soon as practically possible, such information in its possession or in the possession of the Architect or other consultant regarding the requirements of the Project, the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements, when such information is required in order for the Construction Manager to fulfill its responsibilities under this Agreement.

(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.

§ 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. The Owner shall 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 written request for such information or services. The Construction Manager shall be entitled to reasonably rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work..

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties in writing, 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 describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site when such services are requested by the Construction Manager in writing and such services are reasonably required to complete the Project in a manner consistent with good workmanship. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other

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necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested in writing by the Construction Manager and such services are reasonably required to complete the Project in a manner consistent with good workmanship, 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 upon written request by the Construction Manager. The Owner shall 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 written request for such information or services.

(Paragraph deleted)

§ 4.2 Owner's Designated Representative

The Owner may identify a representative authorized to act on behalf of the Owner with respect to the Project to the extent permitted by law and Owner's board policy and to the extent authorized by formal action by the Board of Trustees. The Owner's representative, if one is formally designated, shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, as amended, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative, if any. The Owner's Board of Trustees retains final approval authority over all Change Orders.

(Paragraphs deleted)

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.)

\$20,000

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

§ 5.2 Payments

§ 5.2.1 Payments shall be made following the Construction Manager's presentation of an Application for Payment and approval and certification by the Architect of such application (or of a portion of such Application), subject to Owner's right to request a rescission or amendment of the Architect's certification, and further subject to any right Owner may have under the Contract Documents to withhold or otherwise reduce payment. Construction Manager's Applications for Payment must be proportional to services actually performed.

§ 5.2.2 Payments are due and payable as provided by law.

§ 5.2.3 The obligations of the Construction Manager under Article 10 shall apply to the Preconstruction Phase services. Each monthly invoice shall be supported by appropriate documentation, and the Construction manager shall supply such evidence as Owner or Architect may reasonably require to substantiate the compensation claimed.

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 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.

§ 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.)

Three and One-Tenths Percent (3.1%) of the Cost of the Work

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

None

§ 6.1.4 Limitations, if any, on a subcontractor's overhead and profit for increases in the cost of its portion of the Work that are included in a Change Order or Construction Change Directive:

Overhead and profit shall not exceed 10% of the cost increase reflected in the Change Order or Construction Change Directive.

§ 6.1.5 The Construction Manager, along with the Guaranteed Maximum Price Proposal, shall submit its rental rates for Construction Manager-owned equipment. Compensation for these items shall not exceed the lower of (1) the standard rate paid at the place of the Project, or (2) the rates provided in the Guaranteed Maximum Price Proposal.

§ 6.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

Owner and Construction Manager recognize that time is of the essence in the Agreement and that the Owner will suffer financial loss if the Work is not completed within the time specified in the Guaranteed Maximum Price Amendment. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed within such time.

Accordingly, in the event the Construction Manager fails to achieve Substantial Completion of the Work by the agreed date, the Owner shall be entitled to liquidated damages in the amount of \$1,500 per day until the Work is substantially completed. In the event the Construction Manager fails to achieve Final Completion of the Work by the agreed date, the Owner shall be entitled to liquidated damages in the amount of \$500 per day until the Work is finally completed. In the event that the parties establish multiple required dates of Substantial Completion, these liquidated damages provisions apply independently to each required date of Substantial Completion and Final Completion. Unless the Guaranteed Maximum Price Amendment explicitly states otherwise, the Construction Manager shall achieve final completion of the Project no later than ninety (90) days from the date Substantial Completion.

It is expressly understood that these amounts are agreed upon as a fair estimate of the pecuniary damages that the Owner will incur if the Work is not completed within the agreed time. These amounts shall be considered as liquidated damages only, the exact ascertainment of which is difficult, and in no sense shall be considered a penalty.

The parties agree that the damages that the Owner would suffer due to the Construction Manager's failure to meet the necessary timelines are difficult to estimate. Each party represents that, as of the date of this Agreement, it believes the liquidated damages identified in this section to be a reasonable estimate of the damages that the Owner would suffer due to the Construction Manager's failure to meet the necessary timelines, and the Construction Manager acknowledges that such representation on its part is a substantial inducement to Owner's agreement with the terms of this Agreement.

The parties agree that the Owner may withhold any accrued liquidated damages at any time and from any payment that otherwise may be due to the Construction Manager. The parties further agree that the sum of all liquidated damages under this section shall also be deemed a credit against amounts owed by Owner to Construction Manager.

§ 6.1.7 Other:

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

If the Construction Manager completes the performance of the Work for less than the Guaranteed Maximum Price, the difference between (i) the total aggregate sum of the actual Cost of the Work plus the Construction Manager's fee and (ii) the Guaranteed Maximum Price shall inure in its entirety to the Owner's benefit.

§ 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. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner 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.

§ 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.

§ 6.3.2 Adjustments 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.

§ 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 amended, 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 as amended 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 In the case of changes in the Work, the Construction Manager's Fee will be adjusted as provided for in Section 6.1.3, if the Construction Manager, Owner, and Architect agree that the scope of services has changed significantly. If, however, these parties cannot agree that the scope of services has changed significantly, the Construction Manager's Fee shall not be adjusted.

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 costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost. If Construction Manager fails to do so, it waives any right to reimbursement of such costs.

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

§ 7.1.4 The Cost of Work shall not include costs incurred because of the negligence, breach of contract, or other misconduct of the Construction Manager or of any subcontractor. All cost items qualifying for reimbursement under this Article 7 as included in the Cost of the Work shall be included in the Guaranteed Maximum Price.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior written approval, at off-site workshops.

§ 7.2.1.1 To the extent allowed by law, the Construction Manager may seek to perform portions of the Work itself by submitting a bid or proposal for those portions of the Work in the same manner as all other trade contractors or subcontractors (such work is referred to in this section as "Self-Performed Work"), subject to the following provisions:

1. Self-Performed Work is payable on a "cost"-plus-"fee" basis subject to an agreed-upon guaranteed maximum price, as follows:

- (i) The "cost" is defined as costs for the following items, but only to the extent they are properly reimbursable as Cost of the Work under this Agreement: labor performed with Construction Manager's own forces, labor burden, materials, and equipment.
 - (ii) The "fee" is defined as an amount no more than 7.5% of the "cost." The "fee" defined in this Section 7.2.1.1.1(ii) solely applies to the "cost" under Section 7.2.1.1.1(i), and in no circumstances can it be applied as the fee for Work properly categorized as "Subcontract Costs" under Section 7.3.
2. The Construction Manager's bid or proposal shall reflect the requirements of this section and shall specify a guaranteed maximum amount for the Self-Performed Work. The Owner's obligation to reimburse for Self-Performed Work shall not exceed the specified and agreed-upon guaranteed maximum price for such Self-Performed Work.
 3. All savings arising from Self-Performed Work shall be applied to reduce the Guaranteed Maximum Price of this Agreement.
 4. For purposes of defining Self-Performed Work, any division of Construction Manager, or any separate contractor or subcontractor that is partially owned or wholly owned by the Construction Manager, or any of Construction Manager's parent companies, employees, or employee's relatives will be considered a related party entity and any work performed by such entity will be considered Self-Performed Work by the Construction Manager.
 5. No Self-Performed Work will be allowed to be performed on a lump-sum basis.
 6. If the Construction Manager does not self-perform the majority of the scope of Self-Performed Work and as a result subcontracts a significant portion of the scope of work to another trade contractor, then no self-performed work fees will apply to the cost of any such work.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior written approval.

§ 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 limited to the personnel and activities listed below:

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

None

§ 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.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for payroll taxes, but not any taxes for which the Owner is exempt by virtue of its status as a governmental entity, insurance as required by the Contract Documents, 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.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall not increase 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 and this Agreement. To the extent that the Construction Manager is allowed by law and by the Contract Documents to perform work with its own forces, the parties agree that those costs will not be considered Subcontract Costs under this Section 7.3, but, rather, are subject to reimbursement to the extent provided elsewhere in this Article 7.

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

§ 7.4.1 Costs, including transportation and 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 Costs of transportation, storage, 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 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior written approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies necessary for the performance of the Work.

§ 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 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

(Paragraphs deleted)

§ 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.

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

(Paragraphs deleted)

§ 7.6.7 Reasonable costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes directly resulting from the Owner's actions.

(Paragraphs deleted)

§ 7.7 Other Costs and Emergencies

(Paragraph deleted)

§ 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 as amended.

(Paragraphs deleted)

§ 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 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 may be explicitly allowed elsewhere in Article 7;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any subcontractor or vendor;
- .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 that would cause the Guaranteed Maximum Price to be exceeded;
- .9 Costs for services incurred during the Preconstruction Phase;
- .10 Costs incurred because of the negligence, breach of contract, or other misconduct of the Construction Manager or any subcontractor;
- .11 Delay damages or claims, including but not limited to acceleration costs; and
- .12 Storage costs, unless with prior written approval of the Owner.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts, 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 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 furnish to Owner and Architect for the Owner's approval prior to any public advertisement or solicitation for the portion of the Work, the evaluation criteria that the Construction Manager proposes to use in recommending qualified trade contractors or subcontractors for each portion of the Work that will provide the best value for the Owner. After acceptance of the GMP proposal, 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. All subcontracts for the Project shall be awarded in accordance with the Texas Government Code, Chapter 2267, Subchapter F.

§ 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; (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, and (4) offers the best value to the Owner, then the Construction Manager may request 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 The Construction Manager shall include the following specific notices in the information to proposers, along with any other notices required by law:

- .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; and
- .4 The notice regarding trench and shoring safety required by Texas Health and Safety Code Section 756.023.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Project, 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 shall 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 final payment, or for such longer period as may be required by law.

All records shall be maintained in accordance with generally accepted accounting principles and procedures, consistently applied. Subcontractors retained by the Construction Manager on a cost-plus basis shall have the same obligations to retain records and cooperate with audits as are required of the Construction Manager under this Article 10.

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, subject to Owner's right to request a rescission or amendment of the Architect's certification, and further subject to any right Owner may have under the Contract Documents to withhold or otherwise reduce payment. .

§ 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 Architect will, within seven days after receipt of the Construction Manager's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Construction Manager, for such amount as the Architect determines is properly due, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Paragraph 9.5 of the AIA Document A201-2017, as amended by the parties. Owner shall make payment for amounts properly due pursuant to the requirements of the law. Notwithstanding such certification for payment by the Architect however, Owner shall be entitled to withhold payment to such extent as may be necessary in the Owner's opinion, reasonably supported, to protect the Owner from loss for which the Construction Manager is responsible, including loss of the reasons listed in 9.5.1 of the AIA Document A201-2017, as amended. Such withholding of such payment by owner shall not be deemed a breach of the Contract Documents nor a failure to make timely payment.

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit upon Owner's request, 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. Additionally, with each Application for Payment, the Construction Manager shall submit a "buyout report" that accurately reflects the status (including monetary amounts) of all contracts entered into by the Construction Manager for performance of the Work.

§ 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 shall allocate the entire Guaranteed Maximum Price among: (1) the various portions 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.

§ 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 may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 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 and Owner.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. 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) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201-2017 as amended 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 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 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 as amended;
- .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 in such documentation;
- .6 Retainage withheld pursuant to Section 11.1.8; and
- .7 Liquidated damages as provided in this Agreement, except that Owner may elect to subtract such amounts from any subsequent pay application.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Final 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.)

Five percent (5%)

§ 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.)

None

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be 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.)

None

(Paragraphs deleted)

§ 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.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In submitting the Construction Manager's Applications for Payment the Construction Manager shall be responsible for all errors and omissions.

§ 11.1.13 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.

§ 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, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, as amended, and to satisfy other requirements, if any, which 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 personnel; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2 and approved by the Owner.

§ 11.2.2 Within 30 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. It is the Construction Manager's responsibility to ensure that the final accounting it submits is full and complete. Owner may deduct from any payment otherwise owed to Construction Manager any amount that Owner or Owner's auditor determines is not supported by the Construction Manager's final accounting. Additionally, any amount paid by the Owner in excess of that required by this Agreement shall be, at Owner's election, either withheld from any payment otherwise due to Construction Manager, or returned by Construction Manager within seven days of the date Construction Manager becomes aware of such overpayment.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 30 days after completion of the audit, submit a written report based upon the auditors' 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 agents or representatives of the Owner's 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 request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017, as amended. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors or other agents or representatives of the Owner becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall, subject to all of the Owner's rights to withhold payment or otherwise deduct amounts, 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 issuance of the Architect's final Certificate for Payment, or as otherwise allowed by law.

(Paragraph deleted)

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest

(Paragraphs deleted)

as provided by law.

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. The Claims process set forth in this Article 12 and in Article 15 of the applicable A201 shall constitute an independent "contractual adjudication procedure" as that term is used in Texas Local Government Code Chapter 271 Subchapter I.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 (Paragraphs deleted) as amended.

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017 as amended, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

N/A

Litigation in a court of competent jurisdiction, subject to any other requirements that may need to be satisfied prior to the commencement of litigation.

N/A

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.

§ 12.3. Contractual Adjudication Procedure for all Claims and Disputes

- .1 The requirements of this Section 12.3 shall constitute an independent "contractual adjudication procedure" as that term is used in Texas Local Government Code Chapter 271 Subchapter I.
- .2 **Pre-Litigation Grievance and Mediation.** Any claim, dispute or other matter in question that Construction Manager has against Owner shall be subject to full exhaustion of the grievance procedure found in Owner's GF (LOCAL) policy and non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by Construction Manager. In the case of any such claim, dispute, or other matter, by the Construction Manager against the Owner, including, but not limited to, any claim that the Owner has breached a contract, the Construction Manager may not file a lawsuit or demand mediation until the complaint procedure found in Owner's GF (LOCAL) policy has been fully exhausted regarding the contested matter. A copy of this policy is attached hereto and incorporated herein as Exhibit A-1. The Construction Manager's failure to timely file a grievance under policy GF (LOCAL), meet any requirement of this Article 12, or otherwise fully exhaust policy GF (LOCAL) in accordance with the policy's requirements is a failure to adhere to contractual adjudication procedures, a failure to exhaust remedies, a failure to fulfill conditions precedent, constitutes waiver, and is a bar to suit against the Owner.
 - a. The timelines under Policy GF (LOCAL) are amended for purposes of this Agreement as follows: Construction Manager's complaint must be reduced to writing and filed within ninety (90) calendar days of the date the Construction Manager first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint. If the Construction Manager fails to meet this timeline, the Construction Manager will have failed to exhaust this remedy, will have failed to adhere to this contractual adjudication procedure, will have failed to fulfill conditions precedent to suit, will have waived the complaint, and will be barred from suing the Owner.
 - b. Construction Manager agrees that, in order to fully exhaust its remedies under policy GF (LOCAL) and otherwise comply with this Section 12.3, Construction Manager must identify

and articulate in writing the specific factual and legal basis for its claims. Any basis that is not identified and articulated by the Construction Manager as part of its complaint under GF (LOCAL) is waived by the Construction Manager and may not be asserted in any subsequent proceeding against the Owner.

- c. The following are each an independent condition precedent to the institution of civil proceedings by the Construction Manager against the Owner concerning the contested matter: 1) full exhaustion of claims through Owner's GF (LOCAL) policy as described herein, 2) full exhaustion of the Claims process referenced in this Agreement and the applicable A201, 3) a written demand by the Construction Manager for mediation, and 4) good faith and full participation in the mediation process.
- d. Following the full exhaustion of claims through Owner's GF (LOCAL) procedure, and upon receipt by Owner of Construction Manager's written demand for mediation, Owner may, at its option, either proceed with non-binding mediation of the dispute, or provide written notice to Construction Manager of Owner's decision to waive its right to compel such mediation. Owner's voluntary participation in any mediation or any other settlement discussions shall not be construed as a waiver of any failure by Construction Manager to exhaust remedies, follow contractual adjudication procedures, or otherwise comply with the Contract Documents. If the parties participate in mediation, the parties shall share the mediator's fee and any filing fees equally.

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, 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.

§ 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, solely as provided in Article 5, and shall have no other recovery. 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 compensated for Preconstruction Phase services. 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 pursuant to a written agreed-upon Work Authorization Amendment, 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 performed 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 for Construction Phase services; and
- .4 Credit Owner for claims, credits, offsets, and deductions to which the Owner is entitled under the Contract Documents.

§ 13.1.6 The Owner shall also pay the Construction Manager, 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, 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;
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201-2017; and
- .5 Credit Owner for claims, credits, offsets, and deductions to which the Owner is entitled under the Contract Documents.

§ 13.2.2.2 The Owner shall also pay the Construction Manager, 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 pay the Construction Manager a termination fee as follows:

(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.)

None

§ 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 and Contract Time may be increased as provided in Article 14 of AIA Document A201–2017 as amended.

§ 13.4. Damages

In no event shall the Construction Manager be entitled to recover for overhead, lost profits, benefit of the bargain damages, consequential damages, lost opportunity costs, impact damages, damage to reputation, financing costs, loss of productivity, stand-by time, demobilization costs, termination costs, loss of surety bonding capacity, or other damages by reason of any termination or suspension by Owner or the Construction Manager. Construction Manager expressly waives any such claims. This Section 13.4 shall not be interpreted to support any claim for damages by the Construction Manager.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 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. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017 as amended, neither party to the Contract shall assign the Contract as a whole 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.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201–2017, as amended.

The Construction Manager shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Construction Manager's usual source, and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum.

The Construction Manager shall deliver the required bonds to the Owner at least three days before the commencement of any Work at the Project site.

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

§ 14.5 Other provisions:

§ 14.5.1 The right to the recovery of attorney's fees available under Texas Local Government Code Chapter 271, Subchapter I is hereby waived.

§ 14.5.3 No delay or omission by Owner in exercising any right or power accruing upon the noncompliance or failure of performance by the Construction Manager 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 of any breach by either of the parties of any covenant, condition or agreement shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

§ 14.5.4 Construction Manager shall require all construction workers, whether Construction Manager's own forces, or the forces of Construction Manager'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 have identification of the construction worker by number or other identifying medium in a typeface large enough to be seen from a reasonable distance.

§ 14.5.5 Construction Manager shall require all construction workers, whether Construction Manager's own forces or the forces of Construction Manager'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 may be towed at the vehicle owner's sole expense.

§ 14.5.6 Construction Manager shall follow, and shall require all employees, agents or subcontractors to follow all applicable ordinances of the municipality or municipalities in which the Project is located, including the tree ordinance, if applicable. If not covered by the municipal tree ordinance, Construction Manager shall barricade and protect all trees on the Project, which shall be included in the Cost of the Work.

§ 14.5.7 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 the 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."

§ 14.5.8 Construction Manager stipulates that Owner is a political subdivision of the State of Texas, and, as such, may enjoy immunities from suit and 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 required by law.

§ 14.5.9 This Agreement is subject to all applicable federal and state laws, rules, and regulations.

§ 14.5.10 This Section 14.5.10 only applies if Construction Manager has more than 10 full time employees and the Agreement is valued at \$100,000 or more. By executing this Agreement, Construction Manager verifies the following:

- .1 as required by Texas Government Code 2270.002: Construction Manager verifies that it does not boycott Israel and will not boycott Israel during the term of this contract.
- .2 as required by Texas Government Code 2274.002, Construction Manager verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association.
- .3 as required by Texas Government Code 2274.002, Construction Manager verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract.

§ 14.5.11. The Construction Manager agrees and stipulates that the unpaid portion of the Contract Sum (up to the Guaranteed Maximum Price established in the GMP Amendment and as subject to modification by means of a Modification as defined in the A201 General Conditions applicable to the Project), is the absolute maximum amount that could ever possibly be due and owing under this Agreement from Owner to Construction Manager. The Construction Manager hereby waives any claim against Owner for any amount in excess of the amount stipulated in this Section 14.5.11. The Construction Manager's agreement, stipulation, and waiver under this section are each a material inducement to Owner's agreement.

§ 14.6 Contracting Information

§ 14.6.1 This Section 14.6 applies only if, per Texas Government Code §552.371(a), (1) the Agreement has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the governmental body; or (2) the Agreement results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the Owner in a fiscal year of the Owner.

§ 14.6.2 Pursuant to Texas Government Code §552.372, the Construction Manager must:

- (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the Owner for the duration of the contract;
- (2) promptly provide to the Owner any contracting information related to the contract that is in the custody or possession of the entity on request of the Owner; and
- (3) on completion of the contract, either:
 - (a) provide at no cost to the Owner all contracting information related to the contract that is in the custody or possession of the entity; or

(b) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the Owner.

§ 14.6.3 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Contractor or vendor agrees that the contract can be terminated if the Contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

§ 14.6.4 "Contracting information" is defined by Texas Government Code §552.003(7) and means the following information maintained by a governmental body or sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor:

- (A) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body;
- (B) solicitation or bid documents relating to a contract with a governmental body;
- (C) communications sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;
- (D) documents, including bid tabulations, showing the criteria by which a governmental body evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and
- (E) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

§ 14.7 The Construction Manager shall not execute a contract with any subcontractor that contains an agreement or provision to arbitrate claims. In the event that a subcontractor seeks to arbitrate a claim arising out of or relating to the Contract Document or this Project, Construction Manager shall not seek to join in such or any other arbitration proceeding relating to this Project.

§ 14.8 Construction Manager agrees to waive any claim it has or may have against the Owner, the Architect, and their respective employees and officers, arising out of or in connection with the administration, evaluation, or recommendation of any bid or proposal; waiver of any requirements under the procurement documents related to this Project; the Contract Documents; acceptance or rejection of any bids or proposals; and award of the Contract.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement 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 Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 This modified 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, if executed
(Paragraphs deleted)
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction, as amended
(Table deleted)
- .7 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Exhibit A-1 – Owner's GF (LOCAL) Board Policy

Exhibit B – Prevailing Wage Rate Schedule (see Section 3.4.1.1 of the A201 General Conditions, as amended)

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

OWNER (Signature)

(Printed name and title)

DATE



CONSTRUCTION MANAGER (Signature)
 president

(Printed name and title)
11-10-2022

DATE

 **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 Ninth day of November in the year 2022
(In words, indicate day, month, and year.)

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

Belton Independent School District
1220 Huey Drive
Belton, Texas 76513

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

CORE Construction
6320 Research Rd.
Frisco, Texas 75033

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

2022 Building Program – Southwest Elementary School

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

PBK Architects
6300 Bridge Point Parkway
Building 2, Suite 115
Austin, Texas 78730

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:

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

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 (if executed)

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.)

To be determined by Owner

§ 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.)

To be determined

§ 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.)

\$11,467,000

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

- .1 Design phase milestone dates, if any:
- .2 Construction commencement date:
- .3 Substantial Completion date or dates:
Summer 2024
- .4 Other milestone dates:

(Paragraphs deleted)

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere.)

None

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

(List name, address, and other contact information.)

Owner's Board of Trustees, acting as a body corporate

§ 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.)

Owner's Superintendent or designee(s)

(Paragraphs deleted)

§ 1.1.11 The Architect's representative:

(List name, address, and other contact information.)

Darrell Pearson

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:

(List name, address, and other contact information.)

Pre-Construction Phase:

Pre-Construction Representative will be:

Steven Normand, Director of Preconstruction
6320 Research Rd.
Frisco, TX 75033

Construction Phase:

Gary Aanenson, Vice-President
CORE Construction Services of Texas, Inc.
6320 Research Rd.
Frisco, TX 75033
(972) 668-9340

Init.

§ 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.)

To be determined by Owner

(Paragraphs deleted)

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

None

(Paragraph deleted)

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

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, the A201 General Conditions specifically referenced herein, Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. 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.

§ 2.2 Relationship of the Parties

The Construction Manager accepts and owes to Owner a fiduciary duty, and further 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 furnish efficient construction administration, management services, and supervision; 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. Owner shall be entitled to rely on the information provided by Construction Manager in connection with the Construction Manager's construction administration and management services. 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 Construction Manager agrees that 1) because it owes the Owner a duty of trust and confidence and 2) because of the covenants it has made to the Owner in this Agreement, Construction Manager would be violating its duty of trust and confidence to the Owner to agree to pursue claims or causes of action against the Owner on behalf of any other party, including but not limited to, any contractor, subcontractor, trade contractor or any other person or entity whatsoever. Construction Manager shall not make any agreement, written or otherwise, with any contractor, subcontractor, trade contractor or any other person or entity whatsoever to assert claims or causes of action in any event against the Owner. Should the Construction Manager make any agreement to assert any claims or causes of action on behalf of any other person or entity against the Owner, Construction Manager has breached its duty of trust and confidence, including its duty of utmost good faith, duty to be fair and equitable to Owner, duty to make reasonable use of the confidence Owner placed in it, duty to place Owner's interests before its own and not self-deal, and its duty to fully and fairly disclose all important information concerning the above-referenced Project.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, as amended, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; 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 as amended shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2017 as amended, which document is incorporated herein by reference. The term "Contractor" as used in A201-2017 as amended 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 Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. 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 provide complete and accurate 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 Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. Except as required by the Construction Manager's duty to exercise reasonable care or by any part of the Contract Documents, 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 in writing any nonconformity discovered by or made known to the Construction Manager and also 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.

§ 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; 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. The Construction Manager shall also review and 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.

§ 3.1.3.3 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, as negotiated with terms acceptable to Owner and executed by the Parties, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 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; and the occupancy

requirements of the Owner. If preliminary Project schedule updates indicate that previously approved schedules may not be met, the Construction Manager shall make appropriate recommendations in writing to the Owner and Architect.

§ 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, availability of labor and materials, time of performance, 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.

§ 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 written 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 Prior to the commencement of the Schematic Design, Design Development and Construction Documents phases, the Construction Manager shall prepare and submit for the Architect's review and Owner's written approval a written project schedule and written 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 Construction Manager shall inform the Owner and Architect in writing in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, describe the reasons therefor, and make written recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services, 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 written recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide written 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 written 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, as negotiated with terms acceptable to the Owner and attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 The Construction Manager shall provide a written subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' 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 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, then, upon the establishment of the Guaranteed Maximum Price, the Owner may elect to assign all contracts for these items to the Construction Manager and the Construction Manager shall accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes (including, but not limited to, building and fire codes), rules and regulations, Owner's policies, and all applicable law 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.)

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. 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 Contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 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; the clarifications and assumptions shall not delete or mitigate in any way any of the Construction Manager's duties or the Owner's rights under this Agreement and the applicable A201 General Conditions and shall not be treated as an amendment of this Agreement or the applicable A201 General Conditions; additionally, the Construction Manager shall notify the Owner and Architect in writing of any inconsistencies between the proposed assumptions and clarifications contained in the Guaranteed Maximum Price Proposal and the Contract Documents;
- .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; and the Construction Manager's Fee; and
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based.

§ 3.2.3.5 If the Construction Manager includes in its Guaranteed Maximum Price proposal any terms, whether in the Assumptions and Clarifications or in any attachment or requirement of the Guaranteed Maximum Price proposal, which purport to modify the duties, rights, or privileges of either Party under this Agreement or the A201 General Conditions as amended, or otherwise require such a modification, the Construction Manager must: (1) list with each proposed term the section or sections of this Agreement or the A201 General Conditions that would be modified by the proposed term, and (2) provide notice to the Owner in a separate written letter that (a) the Construction Manager proposes to modify the terms

of this Agreement and/or the A201 General Conditions through the Guaranteed Maximum Price proposal, and (b) the Owner should have its legal counsel review the proposed changes prior to the Owner's acceptance of the Guaranteed Maximum Price proposal.

If the Construction Manager does not comply with the requirements of this Section 3.2.3.5, the Owner shall be entitled to accept the pricing provided by the Construction Manager in its Guaranteed Maximum Price proposal without modification to this Agreement or the A201 General Conditions. Failure to notify the Owner under this section shall be considered a breach of the Construction Manager's fiduciary duty to the Owner.

Furthermore, the Owner's acceptance of a Guaranteed Maximum Price proposal does not obligate the Owner to make any modifications to this Agreement or A201 General Conditions nor entitle the Construction Manager to rely on the proposed modifications unless they have been incorporated into the Guaranteed Maximum Price Amendment executed by the Parties with specific reference to this Section 3.2.3.5 and the section or sections affected by the modification.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a separately-identified the "Construction Contingency," for use in accordance with this section. Any use of the Construction Contingency is subject to the Owner's right to approve or disapprove of any particular use. 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 (subject to Owner approval), 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, but only to the extent such costs are within the Cost of the Work. 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 were not reasonably inferable from the Guaranteed Maximum Price documents, the correction of minor defects relating to design, delays in receipt of materials. The Construction Manager, with the Owner's written approval, may utilize the Construction Contingency solely for any of the above items that are 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. 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. Construction Manager shall notify the Owner and Architect, and request their approval, of every expenditure from the Construction Contingency no later than 15 days from the date it recognizes the need for the expenditure. Failure to comply with this timeline constitutes a waiver by Construction Manager of reimbursement for an expenditure. Notwithstanding anything in this section, Owner may withhold approval of use of the Construction Manager's Contingency if (1) the proposed expenditure arises from the negligence or other fault of the Construction Manager, a subcontractor, or anyone else for whom the Construction Manager is responsible; (2) the proposed expenditure is not reimbursable as a Cost of the Work or is otherwise disallowed under the Contract Documents; or (3) other good cause as determined by the Architect or by the Owner.

§ 3.2.4.1 The Guaranteed Maximum Price proposal may 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 sole discretion of Owner. Any unused Owner's Contingency shall accrue to the Owner. Construction Manager has no contractual right to require that Owner make any expenditure from the Owner's Contingency.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal and the written statement of its basis. 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. However, such review by Owner and Architect is not a guarantee or warranty of the accuracy of the Guaranteed Maximum Price.

§ 3.2.6 The Owner's Board of Trustees shall be allowed not less than 30 days to consider the Guaranteed Maximum Price Proposal. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager 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, the Specifications, Drawings, and other Contract Documents, and the required date for Substantial Completion. Owner retains the absolute right not to accept any Guaranteed Maximum Price proposal and otherwise to elect not to proceed to the construction phase under this Agreement.

§ 3.2.7 The Construction Manager shall not enter into a subcontract or 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 Construction Manager shall notify the Owner and Architect in writing of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the Contract Documents.

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

§ 3.2.9 The Guaranteed Maximum Price Proposal will include the following: To the extent that the costs of the items listed in this section are reimbursable under this Agreement, the Construction Manager agrees that the total of such costs will not exceed 5.71% of the remaining Cost of the Work (exclusive of all items listed in this section). Construction Manager shall be responsible for all costs exceeding this limit. This section is not intended to stipulate an amount payable for the items listed in this section, but, rather, to limit the maximum amount that may be reimbursed for these items. All Cost of the Work items, including, but not limited to, those listed in this section, are reimbursable amounts that must be documented and proven, along with all other requirements set out in this Agreement. This section applies to the following items:

ITEM

1.100 FIELD ADMINISTRATION

Project Director
Project Manager
Assistant PM
Project Engineer
Project Coordinator
Project Accountant
Vehicles
Travel & Per Diem

1.102 FIELD SUPERVISION

Project Superintendent
Assistant Superintendent
Quality Control Manager
Vehicles

1.120 TEMPORARY STRUCTURES

Project Office
Project Office - setup
Utilities, monthly expense
Temporary Toilet
Staging Area
Project Sign

1.130 SAFETY

Safety Supervisor
Drug Testing / Badging
Protect Floor Openings
Perimeter Protection
Fire Extinguishers
First Aid Supplies
Safety Netting
Sidewalk Tunnel
Flagman

1.146 UTILITIES

Temporary Power
Checkout Power

Temp. Power for Crane
Temporary Water
Temporary Elec to Trailer
Temporary Piping
Telephone, Internet
Cellular Phone

1.155 TEMPORARY SERVICES

Ice, cups, water
Janitor Services
Office Furnishings
Office Equipment
Postage/Express
Security Monitoring System
Blue Printing
Drone Deploy

Procure, Textura, Struction Site
Walk and Street Rental
Temporary Partitions & Enclosures
Partnering

1.300 GENERAL TRASH REMOVAL

Clean Up Crew
Dumpster (Trailer staff)
Dumpster (Trades)
Dumping Fees
Rubbish Chute

.320 FINAL CLEAN

Clean Building Area
Clean Site
Cleaning Supplies

1.600 EQUIPMENT RENTAL

Water Pump & Hoses
Tractor
Fork Lift
Lull

Temp Cab Protection
Elevator Cab Operator
Misc. Small Tools
1.630 EQUIPMENT SUPPORT
Fuel & Maintenance

1.700 INSURANCE
General Liability, Umbrella & Pollution
Payment & Performance Bonds

Within the limit specified above, the following items are subject to their own not-to-exceed amounts as specified below:

Performance and Payment Bonds: 0.67% of the remaining Cost of the Work (exclusive of all items listed in this section)
Full Time on-site Superintendent: \$3,923 per month
Full Time on-site Project Manager: \$3,702 per month
Full Time on-site Project Engineer: \$2,452 per month

§ 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.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.1.3 Construction Manager shall not perform any portions of the Work unless (1) such services are for supervisory or administrative personnel described in Section 7.2, (2) such services are described in Sections 7.5, 7.6, or 7.7, or (3) it has been awarded such portion in accordance with the same procedures imposed upon all other trade contractors, and then, only if the Owner has determined that the Construction Manager's bid or proposal provides the best value for the Owner.

§ 3.3.1.3.1 All subcontracts for the Project shall be awarded in accordance with the Texas Government Code, Chapter 2269, Subchapter F and the requirements of this Agreement. In addition to other reasonable procedures and methods, the Construction Manager shall also do the following for procuring subcontracts:

- .1 The Construction Manager shall publicly advertise for bids or proposals by publishing in a newspaper published in the county in which the Owner's central administrative office is located a notice soliciting bids or proposals. Such notice must be published once a week for at least two weeks before the deadline to submit. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the Owner's central administrative office is located.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct weekly or otherwise regularly scheduled meetings with the Owner, Architect, and appropriate subcontractors to 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.

§ 3.3.2.2 Promptly upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect an updated construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201-2017 (as amended), including 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 throughout the course of the Work, 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 and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances in writing 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.

§ 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, upon written request of the Construction Manager, shall provide to the Construction Manager or shall ask the Architect or other appropriate consultant to provide to the Construction Manager, as soon as practically possible, such information in its possession or in the possession of the Architect or other consultant regarding the requirements of the Project, the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements, when such information is required in order for the Construction Manager to fulfill its responsibilities under this Agreement.

(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.

§ 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. The Owner shall 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 written request for such information or services. The Construction Manager shall be entitled to reasonably rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work..

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties in writing, 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 describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site when such services are requested by the Construction Manager in writing and such services are reasonably required to complete the Project in a manner consistent with good workmanship. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other

necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested in writing by the Construction Manager and such services are reasonably required to complete the Project in a manner consistent with good workmanship, 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 upon written request by the Construction Manager. The Owner shall 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 written request for such information or services.

(Paragraph deleted)

§ 4.2 Owner's Designated Representative

The Owner may identify a representative authorized to act on behalf of the Owner with respect to the Project to the extent permitted by law and Owner's board policy and to the extent authorized by formal action by the Board of Trustees. The Owner's representative, if one is formally designated, shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, as amended, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative, if any. The Owner's Board of Trustees retains final approval authority over all Change Orders.

(Paragraphs deleted)

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.)

\$15,000

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

§ 5.2 Payments

§ 5.2.1 Payments shall be made following the Construction Manager's presentation of an Application for Payment and approval and certification by the Architect of such application (or of a portion of such Application), subject to Owner's right to request a rescission or amendment of the Architect's certification, and further subject to any right Owner may have under the Contract Documents to withhold or otherwise reduce payment. Construction Manager's Applications for Payment must be proportional to services actually performed.

§ 5.2.2 Payments are due and payable as provided by law.

§ 5.2.3 The obligations of the Construction Manager under Article 10 shall apply to the Preconstruction Phase services. Each monthly invoice shall be supported by appropriate documentation, and the Construction manager shall supply such evidence as Owner or Architect may reasonably require to substantiate the compensation claimed.

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 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.

§ 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.)

Three and One-Tenths Percent (3.1%) of the Cost of the Work

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

None

§ 6.1.4 Limitations, if any, on a subcontractor's overhead and profit for increases in the cost of its portion of the Work that are included in a Change Order or Construction Change Directive:

Overhead and profit shall not exceed 10% of the cost increase reflected in the Change Order or Construction Change Directive.

§ 6.1.5 The Construction Manager, along with the Guaranteed Maximum Price Proposal, shall submit its rental rates for Construction Manager-owned equipment. Compensation for these items shall not exceed the lower of (1) the standard rate paid at the place of the Project, or (2) the rates provided in the Guaranteed Maximum Price Proposal.

§ 6.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

Owner and Construction Manager recognize that time is of the essence in the Agreement and that the Owner will suffer financial loss if the Work is not completed within the time specified in the Guaranteed Maximum Price Amendment. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed within such time.

Accordingly, in the event the Construction Manager fails to achieve Substantial Completion of the Work by the agreed date, the Owner shall be entitled to liquidated damages in the amount of \$1,500 per day until the Work is substantially completed. In the event the Construction Manager fails to achieve Final Completion of the Work by the agreed date, the Owner shall be entitled to liquidated damages in the amount of \$500 per day until the Work is finally completed. In the event that the parties establish multiple required dates of Substantial Completion, these liquidated damages provisions apply independently to each required date of Substantial Completion and Final Completion. Unless the Guaranteed Maximum Price Amendment explicitly states otherwise, the Construction Manager shall achieve final completion of the Project no later than ninety (90) days from the date Substantial Completion.

It is expressly understood that these amounts are agreed upon as a fair estimate of the pecuniary damages that the Owner will incur if the Work is not completed within the agreed time. These amounts shall be considered as liquidated damages only, the exact ascertainment of which is difficult, and in no sense shall be considered a penalty.

The parties agree that the damages that the Owner would suffer due to the Construction Manager's failure to meet the necessary timelines are difficult to estimate. Each party represents that, as of the date of this Agreement, it believes the liquidated damages identified in this section to be a reasonable estimate of the damages that the Owner would suffer due to the Construction Manager's failure to meet the necessary timelines, and the Construction Manager acknowledges that such representation on its part is a substantial inducement to Owner's agreement with the terms of this Agreement.

The parties agree that the Owner may withhold any accrued liquidated damages at any time and from any payment that otherwise may be due to the Construction Manager. The parties further agree that the sum of all liquidated damages under this section shall also be deemed a credit against amounts owed by Owner to Construction Manager.

§ 6.1.7 Other:

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

If the Construction Manager completes the performance of the Work for less than the Guaranteed Maximum Price, the difference between (i) the total aggregate sum of the actual Cost of the Work plus the Construction Manager's fee and (ii) the Guaranteed Maximum Price shall inure in its entirety to the Owner's benefit.

§ 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. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner 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.

§ 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.

§ 6.3.2 Adjustments 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.

§ 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 amended, 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 as amended 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 In the case of changes in the Work, the Construction Manager's Fee will be adjusted as provided for in Section 6.1.3, if the Construction Manager, Owner, and Architect agree that the scope of services has changed significantly. If, however, these parties cannot agree that the scope of services has changed significantly, the Construction Manager's Fee shall not be adjusted.

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 costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost. If Construction Manager fails to do so, it waives any right to reimbursement of such costs.

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

§ 7.1.4 The Cost of Work shall not include costs incurred because of the negligence, breach of contract, or other misconduct of the Construction Manager or of any subcontractor. All cost items qualifying for reimbursement under this Article 7 as included in the Cost of the Work shall be included in the Guaranteed Maximum Price.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior written approval, at off-site workshops.

§ 7.2.1.1 To the extent allowed by law, the Construction Manager may seek to perform portions of the Work itself by submitting a bid or proposal for those portions of the Work in the same manner as all other trade contractors or subcontractors (such work is referred to in this section as "Self-Performed Work"), subject to the following provisions:

1. Self-Performed Work is payable on a "cost"-plus-"fee" basis subject to an agreed-upon guaranteed maximum price, as follows:

- (i) The "cost" is defined as costs for the following items, but only to the extent they are properly reimbursable as Cost of the Work under this Agreement: labor performed with Construction Manager's own forces, labor burden, materials, and equipment.
- (ii) The "fee" is defined as an amount no more than 7.5% of the "cost." The "fee" defined in this Section 7.2.1.1.1(ii) solely applies to the "cost" under Section 7.2.1.1.1(i), and in no circumstances can it be applied as the fee for Work properly categorized as "Subcontract Costs" under Section 7.3.

- 2. The Construction Manager's bid or proposal shall reflect the requirements of this section and shall specify a guaranteed maximum amount for the Self-Performed Work. The Owner's obligation to reimburse for Self-Performed Work shall not exceed the specified and agreed-upon guaranteed maximum price for such Self-Performed Work.
- 3. All savings arising from Self-Performed Work shall be applied to reduce the Guaranteed Maximum Price of this Agreement.
- 4. For purposes of defining Self-Performed Work, any division of Construction Manager, or any separate contractor or subcontractor that is partially owned or wholly owned by the Construction Manager, or any of Construction Manager's parent companies, employees, or employee's relatives will be considered a related party entity and any work performed by such entity will be considered Self-Performed Work by the Construction Manager.
- 5. No Self-Performed Work will be allowed to be performed on a lump-sum basis.
- 6. If the Construction Manager does not self-perform the majority of the scope of Self-Performed Work and as a result subcontracts a significant portion of the scope of work to another trade contractor, then no self-performed work fees will apply to the cost of any such work.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior written approval.

§ 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 limited to the personnel and activities listed below:

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

None

§ 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.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for payroll taxes, but not any taxes for which the Owner is exempt by virtue of its status as a governmental entity, insurance as required by the Contract Documents, 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.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall not increase 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 and this Agreement. To the extent that the Construction Manager is allowed by law and by the Contract Documents to perform work with its own forces, the parties agree that those costs will not be considered Subcontract Costs under this Section 7.3, but, rather, are subject to reimbursement to the extent provided elsewhere in this Article 7.

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

§ 7.4.1 Costs, including transportation and 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 Costs of transportation, storage, 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 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior written approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies necessary for the performance of the Work.

§ 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 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

(Paragraphs deleted)

§ 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.

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

(Paragraphs deleted)

§ 7.6.7 Reasonable costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes directly resulting from the Owner's actions.

(Paragraphs deleted)

§ 7.7 Other Costs and Emergencies

(Paragraph deleted)

§ 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 as amended.

(Paragraphs deleted)

§ 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 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 may be explicitly allowed elsewhere in Article 7;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any subcontractor or vendor;
- .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 that would cause the Guaranteed Maximum Price to be exceeded;
- .9 Costs for services incurred during the Preconstruction Phase;
- .10 Costs incurred because of the negligence, breach of contract, or other misconduct of the Construction Manager or any subcontractor;
- .11 Delay damages or claims, including but not limited to acceleration costs; and
- .12 Storage costs, unless with prior written approval of the Owner.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts, 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 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 furnish to Owner and Architect for the Owner's approval prior to any public advertisement or solicitation for the portion of the Work, the evaluation criteria that the Construction Manager proposes to use in recommending qualified trade contractors or subcontractors for each portion of the Work that will provide the best value for the Owner. After acceptance of the GMP proposal, 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. All subcontracts for the Project shall be awarded in accordance with the Texas Government Code, Chapter 2267, Subchapter F.

§ 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; (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, and (4) offers the best value to the Owner, then the Construction Manager may request 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 The Construction Manager shall include the following specific notices in the information to proposers, along with any other notices required by law:

- .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; and
- .4 The notice regarding trench and shoring safety required by Texas Health and Safety Code Section 756.023.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Project, 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 shall 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 final payment, or for such longer period as may be required by law.

All records shall be maintained in accordance with generally accepted accounting principles and procedures, consistently applied. Subcontractors retained by the Construction Manager on a cost-plus basis shall have the same obligations to retain records and cooperate with audits as are required of the Construction Manager under this Article 10.

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, subject to Owner's right to request a rescission or amendment of the Architect's certification, and further subject to any right Owner may have under the Contract Documents to withhold or otherwise reduce payment.

§ 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 Architect will, within seven days after receipt of the Construction Manager's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Construction Manager, for such amount as the Architect determines is properly due, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Paragraph 9.5 of the AIA Document A201-2017, as amended by the parties. Owner shall make payment for amounts properly due pursuant to the requirements of the law. Notwithstanding such certification for payment by the Architect however, Owner shall be entitled to withhold payment to such extent as may be necessary in the Owner's opinion, reasonably supported, to protect the Owner from loss for which the Construction Manager is responsible, including loss of the reasons listed in 9.5.1 of the AIA Document A201-2017, as amended. Such withholding of such payment by owner shall not be deemed a breach of the Contract Documents nor a failure to make timely payment.

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit upon Owner's request, 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. Additionally, with each Application for Payment, the Construction Manager shall submit a "buyout report" that accurately reflects the status (including monetary amounts) of all contracts entered into by the Construction Manager for performance of the Work.

§ 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 shall allocate the entire Guaranteed Maximum Price among: (1) the various portions 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.

§ 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 may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 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 and Owner.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. 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) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201-2017 as amended 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 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 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 as amended;
- .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 in such documentation;
- .6 Retainage withheld pursuant to Section 11.1.8; and
- .7 Liquidated damages as provided in this Agreement, except that Owner may elect to subtract such amounts from any subsequent pay application.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Final 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.)

Five percent (5%)

§ 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.)

None

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be 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.)

None

(Paragraphs deleted)

§ 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.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In submitting the Construction Manager's Applications for Payment the Construction Manager shall be responsible for all errors and omissions.

§ 11.1.13 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.

§ 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, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, as amended, and to satisfy other requirements, if any, which 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 personnel; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2 and approved by the Owner.

§ 11.2.2 Within 30 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. It is the Construction Manager's responsibility to ensure that the final accounting it submits is full and complete. Owner may deduct from any payment otherwise owed to Construction Manager any amount that Owner or Owner's auditor determines is not supported by the Construction Manager's final accounting. Additionally, any amount paid by the Owner in excess of that required by this Agreement shall be, at Owner's election, either withheld from any payment otherwise due to Construction Manager, or returned by Construction Manager within seven days of the date Construction Manager becomes aware of such overpayment.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 30 days after completion of the audit, submit a written report based upon the auditors' 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 agents or representatives of the Owner's 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 request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017, as amended. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors or other agents or representatives of the Owner becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall, subject to all of the Owner's rights to withhold payment or otherwise deduct amounts, 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 issuance of the Architect's final Certificate for Payment, or as otherwise allowed by law.

(Paragraph deleted)

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest

(Paragraphs deleted)

as provided by law.

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. The Claims process set forth in this Article 12 and in Article 15 of the applicable A201 shall constitute an independent "contractual adjudication procedure" as that term is used in Texas Local Government Code Chapter 271 Subchapter I.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017
(Paragraphs deleted)
as amended.

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017 as amended, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

N/A

Litigation in a court of competent jurisdiction, subject to any other requirements that may need to be satisfied prior to the commencement of litigation.

N/A

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.

§ 12.3. Contractual Adjudication Procedure for all Claims and Disputes

- .1 The requirements of this Section 12.3 shall constitute an independent "contractual adjudication procedure" as that term is used in Texas Local Government Code Chapter 271 Subchapter I.
- .2 **Pre-Litigation Grievance and Mediation.** Any claim, dispute or other matter in question that Construction Manager has against Owner shall be subject to full exhaustion of the grievance procedure found in Owner's GF (LOCAL) policy and non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by Construction Manager. In the case of any such claim, dispute, or other matter, by the Construction Manager against the Owner, including, but not limited to, any claim that the Owner has breached a contract, the Construction Manager may not file a lawsuit or demand mediation until the complaint procedure found in Owner's GF (LOCAL) policy has been fully exhausted regarding the contested matter. A copy of this policy is attached hereto and incorporated herein as Exhibit A-1. The Construction Manager's failure to timely file a grievance under policy GF (LOCAL), meet any requirement of this Article 12, or otherwise fully exhaust policy GF (LOCAL) in accordance with the policy's requirements is a failure to adhere to contractual adjudication procedures, a failure to exhaust remedies, a failure to fulfill conditions precedent, constitutes waiver, and is a bar to suit against the Owner.
 - a. The timelines under Policy GF (LOCAL) are amended for purposes of this Agreement as follows: Construction Manager's complaint must be reduced to writing and filed within ninety (90) calendar days of the date the Construction Manager first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint. If the Construction Manager fails to meet this timeline, the Construction Manager will have failed to exhaust this remedy, will have failed to adhere to this contractual adjudication procedure, will have failed to fulfill conditions precedent to suit, will have waived the complaint, and will be barred from suing the Owner.
 - b. Construction Manager agrees that, in order to fully exhaust its remedies under policy GF (LOCAL) and otherwise comply with this Section 12.3, Construction Manager must identify

and articulate in writing the specific factual and legal basis for its claims. Any basis that is not identified and articulated by the Construction Manager as part of its complaint under GF (LOCAL) is waived by the Construction Manager and may not be asserted in any subsequent proceeding against the Owner.

- c. The following are each an independent condition precedent to the institution of civil proceedings by the Construction Manager against the Owner concerning the contested matter: 1) full exhaustion of claims through Owner's GF (LOCAL) policy as described herein, 2) full exhaustion of the Claims process referenced in this Agreement and the applicable A201, 3) a written demand by the Construction Manager for mediation, and 4) good faith and full participation in the mediation process.
- d. Following the full exhaustion of claims through Owner's GF (LOCAL) procedure, and upon receipt by Owner of Construction Manager's written demand for mediation, Owner may, at its option, either proceed with non-binding mediation of the dispute, or provide written notice to Construction Manager of Owner's decision to waive its right to compel such mediation. Owner's voluntary participation in any mediation or any other settlement discussions shall not be construed as a waiver of any failure by Construction Manager to exhaust remedies, follow contractual adjudication procedures, or otherwise comply with the Contract Documents. If the parties participate in mediation, the parties shall share the mediator's fee and any filing fees equally.

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, 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.

§ 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, solely as provided in Article 5, and shall have no other recovery. 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 compensated for Preconstruction Phase services. 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 pursuant to a written agreed-upon Work Authorization Amendment, 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 performed 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 for Construction Phase services; and
- .4 Credit Owner for claims, credits, offsets, and deductions to which the Owner is entitled under the Contract Documents.

§ 13.1.6 The Owner shall also pay the Construction Manager, 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, 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;
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017; and
- .5 Credit Owner for claims, credits, offsets, and deductions to which the Owner is entitled under the Contract Documents.

§ 13.2.2.2 The Owner shall also pay the Construction Manager, 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 pay the Construction Manager a termination fee as follows:

(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.)

None

§ 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 and Contract Time may be increased as provided in Article 14 of AIA Document A201–2017 as amended.

§ 13.4. Damages

In no event shall the Construction Manager be entitled to recover for overhead, lost profits, benefit of the bargain damages, consequential damages, lost opportunity costs, impact damages, damage to reputation, financing costs, loss of productivity, stand-by time, demobilization costs, termination costs, loss of surety bonding capacity, or other damages by reason of any termination or suspension by Owner or the Construction Manager. Construction Manager expressly waives any such claims. This Section 13.4 shall not be interpreted to support any claim for damages by the Construction Manager.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 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. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017 as amended, neither party to the Contract shall assign the Contract as a whole 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.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201–2017, as amended.

The Construction Manager shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Construction Manager's usual source, and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum.

The Construction Manager shall deliver the required bonds to the Owner at least three days before the commencement of any Work at the Project site.

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

§ 14.5 Other provisions:

§ 14.5.1 The right to the recovery of attorney's fees available under Texas Local Government Code Chapter 271, Subchapter I is hereby waived.

§ 14.5.3 No delay or omission by Owner in exercising any right or power accruing upon the noncompliance or failure of performance by the Construction Manager 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 of any breach by either of the parties of any covenant, condition or agreement shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

§ 14.5.4 Construction Manager shall require all construction workers, whether Construction Manager's own forces, or the forces of Construction Manager'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 have identification of the construction worker by number or other identifying medium in a typeface large enough to be seen from a reasonable distance.

§ 14.5.5 Construction Manager shall require all construction workers, whether Construction Manager's own forces or the forces of Construction Manager'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 may be towed at the vehicle owner's sole expense.

§ 14.5.6 Construction Manager shall follow, and shall require all employees, agents or subcontractors to follow all applicable ordinances of the municipality or municipalities in which the Project is located, including the tree ordinance, if applicable. If not covered by the municipal tree ordinance, Construction Manager shall barricade and protect all trees on the Project, which shall be included in the Cost of the Work.

§ 14.5.7 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 the 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."

§ 14.5.8 Construction Manager stipulates that Owner is a political subdivision of the State of Texas, and, as such, may enjoy immunities from suit and 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 required by law.

§ 14.5.9 This Agreement is subject to all applicable federal and state laws, rules, and regulations.

§ 14.5.10 This Section 14.5.10 only applies if Construction Manager has more than 10 full time employees and the Agreement is valued at \$100,000 or more. By executing this Agreement, Construction Manager verifies the following:

- .1 as required by Texas Government Code 2270.002: Construction Manager verifies that it does not boycott Israel and will not boycott Israel during the term of this contract.
- .2 as required by Texas Government Code 2274.002, Construction Manager verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association.
- .3 as required by Texas Government Code 2274.002, Construction Manager verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract.

§ 14.5.11. The Construction Manager agrees and stipulates that the unpaid portion of the Contract Sum (up to the Guaranteed Maximum Price established in the GMP Amendment and as subject to modification by means of a Modification as defined in the A201 General Conditions applicable to the Project), is the absolute maximum amount that could ever possibly be due and owing under this Agreement from Owner to Construction Manager. The Construction Manager hereby waives any claim against Owner for any amount in excess of the amount stipulated in this Section 14.5.11. The Construction Manager's agreement, stipulation, and waiver under this section are each a material inducement to Owner's agreement.

§ 14.6 Contracting Information

§ 14.6.1 This Section 14.6 applies only if, per Texas Government Code §552.371(a), (1) the Agreement has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the governmental body; or (2) the Agreement results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the Owner in a fiscal year of the Owner.

§ 14.6.2 Pursuant to Texas Government Code §552.372, the Construction Manager must:

- (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the Owner for the duration of the contract;
- (2) promptly provide to the Owner any contracting information related to the contract that is in the custody or possession of the entity on request of the Owner; and
- (3) on completion of the contract, either:
 - (a) provide at no cost to the Owner all contracting information related to the contract that is in the custody or possession of the entity; or

(b) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the Owner.

§ 14.6.3 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Contractor or vendor agrees that the contract can be terminated if the Contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

§ 14.6.4 "Contracting information" is defined by Texas Government Code §552.003(7) and means the following information maintained by a governmental body or sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor:

- (A) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body;
- (B) solicitation or bid documents relating to a contract with a governmental body;
- (C) communications sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;
- (D) documents, including bid tabulations, showing the criteria by which a governmental body evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and
- (E) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

§ 14.7 The Construction Manager shall not execute a contract with any subcontractor that contains an agreement or provision to arbitrate claims. In the event that a subcontractor seeks to arbitrate a claim arising out of or relating to the Contract Document or this Project, Construction Manager shall not seek to join in such or any other arbitration proceeding relating to this Project.

§ 14.8 Construction Manager agrees to waive any claim it has or may have against the Owner, the Architect, and their respective employees and officers, arising out of or in connection with the administration, evaluation, or recommendation of any bid or proposal; waiver of any requirements under the procurement documents related to this Project; the Contract Documents; acceptance or rejection of any bids or proposals; and award of the Contract.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement 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 Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 This modified 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, if executed
(Paragraphs deleted)
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction, as amended
(Table deleted)
- .7 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Exhibit A-1 – Owner's GF (LOCAL) Board Policy

Exhibit B – Prevailing Wage Rate Schedule (see Section 3.4.1.1 of the A201 General Conditions, as amended)

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

OWNER (Signature)

(Printed name and title)

DATE


CONSTRUCTION MANAGER (Signature)

(Printed name and title)
11-10-2022

DATE

Init.





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 Ninth day of November in the year 2022
(In words, indicate day, month, and year.)

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

Belton Independent School District
1220 Huey Drive
Belton, Texas 76513

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

CORE Construction
6320 Research Rd.
Frisco, Texas 75033

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

2022 Building Program – Lake Belton Middle School

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

O'Connell Robertson
811 Barton Springs Road, Suite 900
Austin, Texas 78704

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:

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

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 (if executed)

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.)

To be determined by Owner

§ 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.)

To be determined

§ 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.)

\$8,309,508

Init.

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

.1 Design phase milestone dates, if any:

.2 Construction commencement date:

.3 Substantial Completion date or dates:

Summer 2024

.4 Other milestone dates:

(Paragraphs deleted)

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere.)

None

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

(List name, address, and other contact information.)

Owner's Board of Trustees, acting as a body corporate

§ 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.)

Owner's Superintendent or designee(s)

(Paragraphs deleted)

§ 1.1.11 The Architect's representative:

(List name, address, and other contact information.)

Jarrold Sterzinger

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:

(List name, address, and other contact information.)

Pre-Construction Phase:

Pre-Construction Representative will be:

Steven Normand, Director of Preconstruction

6320 Research Rd.

Frisco, TX 75033

Construction Phase:

Gary Aanenson, Vice-President

CORE Construction Services of Texas, Inc.

6320 Research Rd.

Frisco, TX 75033

(972) 668-9340

Init.

§ 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.)

To be determined by Owner

(Paragraphs deleted)

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

None

(Paragraph deleted)

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

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, the A201 General Conditions specifically referenced herein, Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. 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.

§ 2.2 Relationship of the Parties

The Construction Manager accepts and owes to Owner a fiduciary duty, and further 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 furnish efficient construction administration, management services, and supervision; 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. Owner shall be entitled to rely on the information provided by Construction Manager in connection with the Construction Manager's construction administration and management services. 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 Construction Manager agrees that 1) because it owes the Owner a duty of trust and confidence and 2) because of the covenants it has made to the Owner in this Agreement, Construction Manager would be violating its duty of trust and confidence to the Owner to agree to pursue claims or causes of action against the Owner on behalf of any other party, including but not limited to, any contractor, subcontractor, trade contractor or any other person or entity whatsoever. Construction Manager shall not make any agreement, written or otherwise, with any contractor, subcontractor, trade contractor or any other person or entity whatsoever to assert claims or causes of action in any event against the Owner. Should the Construction Manager make any agreement to assert any claims or causes of action on behalf of any other person or entity against the Owner, Construction Manager has breached its duty of trust and confidence, including its duty of utmost good faith, duty to be fair and equitable to Owner, duty to make reasonable use of the confidence Owner placed in it, duty to place Owner's interests before its own and not self-deal, and its duty to fully and fairly disclose all important information concerning the above-referenced Project.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, as amended, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; 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 as amended shall mean the Construction Manager.

Init.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017 as amended, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 as amended 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 Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. 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 provide complete and accurate 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 Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. Except as required by the Construction Manager's duty to exercise reasonable care or by any part of the Contract Documents, 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 in writing any nonconformity discovered by or made known to the Construction Manager and also 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.

§ 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; 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. The Construction Manager shall also review and 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.

§ 3.1.3.3 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, as negotiated with terms acceptable to Owner and executed by the Parties, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 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; and the occupancy

requirements of the Owner. If preliminary Project schedule updates indicate that previously approved schedules may not be met, the Construction Manager shall make appropriate recommendations in writing to the Owner and Architect.

§ 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, availability of labor and materials, time of performance, 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.

§ 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 written 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 Prior to the commencement of the Schematic Design, Design Development and Construction Documents phases, the Construction Manager shall prepare and submit for the Architect's review and Owner's written approval a written project schedule and written 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 Construction Manager shall inform the Owner and Architect in writing in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, describe the reasons therefor, and make written recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services, 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 written recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide written 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 written 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, as negotiated with terms acceptable to the Owner and attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 The Construction Manager shall provide a written subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' 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 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, then, upon the establishment of the Guaranteed Maximum Price, the Owner may elect to assign all contracts for these items to the Construction Manager and the Construction Manager shall accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes (including, but not limited to, building and fire codes), rules and regulations, Owner's policies, and all applicable law 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.)

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. 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 Contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 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; the clarifications and assumptions shall not delete or mitigate in any way any of the Construction Manager's duties or the Owner's rights under this Agreement and the applicable A201 General Conditions and shall not be treated as an amendment of this Agreement or the applicable A201 General Conditions; additionally, the Construction Manager shall notify the Owner and Architect in writing of any inconsistencies between the proposed assumptions and clarifications contained in the Guaranteed Maximum Price Proposal and the Contract Documents;
- .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; and the Construction Manager's Fee; and
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based.

§ 3.2.3.5 If the Construction Manager includes in its Guaranteed Maximum Price proposal any terms, whether in the Assumptions and Clarifications or in any attachment or requirement of the Guaranteed Maximum Price proposal, which purport to modify the duties, rights, or privileges of either Party under this Agreement or the A201 General Conditions as amended, or otherwise require such a modification, the Construction Manager must: (1) list with each proposed term the section or sections of this Agreement or the A201 General Conditions that would be modified by the proposed term, and (2) provide notice to the Owner in a separate written letter that (a) the Construction Manager proposes to modify the terms

of this Agreement and/or the A201 General Conditions through the Guaranteed Maximum Price proposal, and (b) the Owner should have its legal counsel review the proposed changes prior to the Owner's acceptance of the Guaranteed Maximum Price proposal.

If the Construction Manager does not comply with the requirements of this Section 3.2.3.5, the Owner shall be entitled to accept the pricing provided by the Construction Manager in its Guaranteed Maximum Price proposal without modification to this Agreement or the A201 General Conditions. Failure to notify the Owner under this section shall be considered a breach of the Construction Manager's fiduciary duty to the Owner.

Furthermore, the Owner's acceptance of a Guaranteed Maximum Price proposal does not obligate the Owner to make any modifications to this Agreement or A201 General Conditions nor entitle the Construction Manager to rely on the proposed modifications unless they have been incorporated into the Guaranteed Maximum Price Amendment executed by the Parties with specific reference to this Section 3.2.3.5 and the section or sections affected by the modification.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a separately-identified the "Construction Contingency," for use in accordance with this section. Any use of the Construction Contingency is subject to the Owner's right to approve or disapprove of any particular use. 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 (subject to Owner approval), 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, but only to the extent such costs are within the Cost of the Work. 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 were not reasonably inferable from the Guaranteed Maximum Price documents, the correction of minor defects relating to design, delays in receipt of materials. The Construction Manager, with the Owner's written approval, may utilize the Construction Contingency solely for any of the above items that are 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. 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. Construction Manager shall notify the Owner and Architect, and request their approval, of every expenditure from the Construction Contingency no later than 15 days from the date it recognizes the need for the expenditure. Failure to comply with this timeline constitutes a waiver by Construction Manager of reimbursement for an expenditure. Notwithstanding anything in this section, Owner may withhold approval of use of the Construction Manager's Contingency if (1) the proposed expenditure arises from the negligence or other fault of the Construction Manager, a subcontractor, or anyone else for whom the Construction Manager is responsible; (2) the proposed expenditure is not reimbursable as a Cost of the Work or is otherwise disallowed under the Contract Documents; or (3) other good cause as determined by the Architect or by the Owner.

§ 3.2.4.1 The Guaranteed Maximum Price proposal may 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 sole discretion of Owner. Any unused Owner's Contingency shall accrue to the Owner. Construction Manager has no contractual right to require that Owner make any expenditure from the Owner's Contingency.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal and the written statement of its basis. 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. However, such review by Owner and Architect is not a guarantee or warranty of the accuracy of the Guaranteed Maximum Price.

§ 3.2.6 The Owner's Board of Trustees shall be allowed not less than 30 days to consider the Guaranteed Maximum Price Proposal. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager 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, the Specifications, Drawings, and other Contract Documents, and the required date for Substantial Completion. Owner retains the absolute right not to accept any Guaranteed Maximum Price proposal and otherwise to elect not to proceed to the construction phase under this Agreement.

§ 3.2.7 The Construction Manager shall not enter into a subcontract or 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 Construction Manager shall notify the Owner and Architect in writing of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the Contract Documents.

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

§ 3.2.9 The Guaranteed Maximum Price Proposal will include the following: To the extent that the costs of the items listed in this section are reimbursable under this Agreement, the Construction Manager agrees that the total of such costs will not exceed 5.71% of the remaining Cost of the Work (exclusive of all items listed in this section). Construction Manager shall be responsible for all costs exceeding this limit. This section is not intended to stipulate an amount payable for the items listed in this section, but, rather, to limit the maximum amount that may be reimbursed for these items. All Cost of the Work items, including, but not limited to, those listed in this section, are reimbursable amounts that must be documented and proven, along with all other requirements set out in this Agreement. This section applies to the following items:

ITEM

1.100 FIELD ADMINISTRATION

Project Director
Project Manager
Assistant PM
Project Engineer
Project Coordinator
Project Accountant
Vehicles

Travel & Per Diem

1.102 FIELD SUPERVISION

Project Superintendent
Assistant Superintendent
Quality Control Manager
Vehicles

1.120 TEMPORARY STRUCTURES

Project Office
Project Office - setup
Utilities, monthly expense
Temporary Toilet
Staging Area
Project Sign

1.130 SAFETY

Safety Supervisor
Drug Testing / Badging
Protect Floor Openings
Perimeter Protection
Fire Extinguishers
First Aid Supplies
Safety Netting
Sidewalk Tunnel
Flagman

1.146 UTILITIES

Temporary Power
Checkout Power

Temp. Power for Crane
Temporary Water
Temporary Elec to Trailer
Temporary Piping
Telephone, Internet
Cellular Phone

1.155 TEMPORARY SERVICES

Ice, cups, water
Janitor Services
Office Furnishings
Office Equipment
Postage/Express
Security Monitoring System
Blue Printing
Drone Deploy
Procure, Textura, Struction Site
Walk and Street Rental
Temporary Partitions & Enclosures
Partnering

1.300 GENERAL TRASH REMOVAL

Clean Up Crew
Dumpster (Trailer staff)
Dumpster (Trades)
Dumping Fees
Rubbish Chute

.320 FINAL CLEAN

Clean Building Area
Clean Site
Cleaning Supplies

1.600 EQUIPMENT RENTAL

Water Pump & Hoses
Tractor
Fork Lift
Lull

Init.

Temp Cab Protection
Elevator Cab Operator
Misc. Small Tools
1.630 EQUIPMENT SUPPORT
Fuel & Maintenance

1.700 INSURANCE
General Liability, Umbrella & Pollution
Payment & Performance Bonds

Within the limit specified above, the following items are subject to their own not-to-exceed amounts as specified below:

Performance and Payment Bonds: 0.67% of the remaining Cost of the Work (exclusive of all items listed in this section)
Full Time on-site Superintendent: \$3,923 per month
Full Time on-site Project Manager: \$3,702 per month
Full Time on-site Project Engineer: \$2,452 per month

§ 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.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.1.3 Construction Manager shall not perform any portions of the Work unless (1) such services are for supervisory or administrative personnel described in Section 7.2, (2) such services are described in Sections 7.5, 7.6, or 7.7, or (3) it has been awarded such portion in accordance with the same procedures imposed upon all other trade contractors, and then, only if the Owner has determined that the Construction Manager's bid or proposal provides the best value for the Owner.

§ 3.3.1.3.1 All subcontracts for the Project shall be awarded in accordance with the Texas Government Code, Chapter 2269, Subchapter F and the requirements of this Agreement. In addition to other reasonable procedures and methods, the Construction Manager shall also do the following for procuring subcontracts:

- .1 The Construction Manager shall publicly advertise for bids or proposals by publishing in a newspaper published in the county in which the Owner's central administrative office is located a notice soliciting bids or proposals. Such notice must be published once a week for at least two weeks before the deadline to submit. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the Owner's central administrative office is located.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct weekly or otherwise regularly scheduled meetings with the Owner, Architect, and appropriate subcontractors to 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.

§ 3.3.2.2 Promptly upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect an updated construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201-2017 (as amended), including 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 throughout the course of the Work, 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 and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances in writing 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.

§ 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, upon written request of the Construction Manager, shall provide to the Construction Manager or shall ask the Architect or other appropriate consultant to provide to the Construction Manager, as soon as practically possible, such information in its possession or in the possession of the Architect or other consultant regarding the requirements of the Project, the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements, when such information is required in order for the Construction Manager to fulfill its responsibilities under this Agreement.

(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.

§ 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. The Owner shall 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 written request for such information or services. The Construction Manager shall be entitled to reasonably rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work..

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties in writing, 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 describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site when such services are requested by the Construction Manager in writing and such services are reasonably required to complete the Project in a manner consistent with good workmanship. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other

necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested in writing by the Construction Manager and such services are reasonably required to complete the Project in a manner consistent with good workmanship, 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 upon written request by the Construction Manager. The Owner shall 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 written request for such information or services.

(Paragraph deleted)

§ 4.2 Owner's Designated Representative

The Owner may identify a representative authorized to act on behalf of the Owner with respect to the Project to the extent permitted by law and Owner's board policy and to the extent authorized by formal action by the Board of Trustees. The Owner's representative, if one is formally designated, shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, as amended, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative, if any. The Owner's Board of Trustees retains final approval authority over all Change Orders.

(Paragraphs deleted)

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.)

\$15,000

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

§ 5.2 Payments

§ 5.2.1 Payments shall be made following the Construction Manager's presentation of an Application for Payment and approval and certification by the Architect of such application (or of a portion of such Application), subject to Owner's right to request a rescission or amendment of the Architect's certification, and further subject to any right Owner may have under the Contract Documents to withhold or otherwise reduce payment. Construction Manager's Applications for Payment must be proportional to services actually performed.

§ 5.2.2 Payments are due and payable as provided by law.

§ 5.2.3 The obligations of the Construction Manager under Article 10 shall apply to the Preconstruction Phase services. Each monthly invoice shall be supported by appropriate documentation, and the Construction manager shall supply such evidence as Owner or Architect may reasonably require to substantiate the compensation claimed.

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 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.

§ 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.)

Three and One-Tenths Percent (3.1%) of the Cost of the Work

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

None

§ 6.1.4 Limitations, if any, on a subcontractor's overhead and profit for increases in the cost of its portion of the Work that are included in a Change Order or Construction Change Directive:

Overhead and profit shall not exceed 10% of the cost increase reflected in the Change Order or Construction Change Directive.

§ 6.1.5 The Construction Manager, along with the Guaranteed Maximum Price Proposal, shall submit its rental rates for Construction Manager-owned equipment. Compensation for these items shall not exceed the lower of (1) the standard rate paid at the place of the Project, or (2) the rates provided in the Guaranteed Maximum Price Proposal.

§ 6.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

Owner and Construction Manager recognize that time is of the essence in the Agreement and that the Owner will suffer financial loss if the Work is not completed within the time specified in the Guaranteed Maximum Price Amendment. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the Owner if the Work is not completed within such time.

Accordingly, in the event the Construction Manager fails to achieve Substantial Completion of the Work by the agreed date, the Owner shall be entitled to liquidated damages in the amount of \$1,500 per day until the Work is substantially completed. In the event the Construction Manager fails to achieve Final Completion of the Work by the agreed date, the Owner shall be entitled to liquidated damages in the amount of \$500 per day until the Work is finally completed. In the event that the parties establish multiple required dates of Substantial Completion, these liquidated damages provisions apply independently to each required date of Substantial Completion and Final Completion. Unless the Guaranteed Maximum Price Amendment explicitly states otherwise, the Construction Manager shall achieve final completion of the Project no later than ninety (90) days from the date Substantial Completion.

It is expressly understood that these amounts are agreed upon as a fair estimate of the pecuniary damages that the Owner will incur if the Work is not completed within the agreed time. These amounts shall be considered as liquidated damages only, the exact ascertainment of which is difficult, and in no sense shall be considered a penalty.

The parties agree that the damages that the Owner would suffer due to the Construction Manager's failure to meet the necessary timelines are difficult to estimate. Each party represents that, as of the date of this Agreement, it believes the liquidated damages identified in this section to be a reasonable estimate of the damages that the Owner would suffer due to the Construction Manager's failure to meet the necessary timelines, and the Construction Manager acknowledges that such representation on its part is a substantial inducement to Owner's agreement with the terms of this Agreement.

The parties agree that the Owner may withhold any accrued liquidated damages at any time and from any payment that otherwise may be due to the Construction Manager. The parties further agree that the sum of all liquidated damages under this section shall also be deemed a credit against amounts owed by Owner to Construction Manager.

§ 6.1.7 Other:

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

If the Construction Manager completes the performance of the Work for less than the Guaranteed Maximum Price, the difference between (i) the total aggregate sum of the actual Cost of the Work plus the Construction Manager's fee and (ii) the Guaranteed Maximum Price shall inure in its entirety to the Owner's benefit.

§ 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. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner 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.

§ 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.

§ 6.3.2 Adjustments 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.

§ 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 amended, 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 as amended 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 In the case of changes in the Work, the Construction Manager's Fee will be adjusted as provided for in Section 6.1.3, if the Construction Manager, Owner, and Architect agree that the scope of services has changed significantly. If, however, these parties cannot agree that the scope of services has changed significantly, the Construction Manager's Fee shall not be adjusted.

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 costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost. If Construction Manager fails to do so, it waives any right to reimbursement of such costs.

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

§ 7.1.4 The Cost of Work shall not include costs incurred because of the negligence, breach of contract, or other misconduct of the Construction Manager or of any subcontractor. All cost items qualifying for reimbursement under this Article 7 as included in the Cost of the Work shall be included in the Guaranteed Maximum Price.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior written approval, at off-site workshops.

§ 7.2.1.1 To the extent allowed by law, the Construction Manager may seek to perform portions of the Work itself by submitting a bid or proposal for those portions of the Work in the same manner as all other trade contractors or subcontractors (such work is referred to in this section as "Self-Performed Work"), subject to the following provisions:

1. Self-Performed Work is payable on a "cost"-plus-"fee" basis subject to an agreed-upon guaranteed maximum price, as follows:

- (i) The "cost" is defined as costs for the following items, but only to the extent they are properly reimbursable as Cost of the Work under this Agreement: labor performed with Construction Manager's own forces, labor burden, materials, and equipment.
 - (ii) The "fee" is defined as an amount no more than 7.5% of the "cost." The "fee" defined in this Section 7.2.1.1(ii) solely applies to the "cost" under Section 7.2.1.1(i), and in no circumstances can it be applied as the fee for Work properly categorized as "Subcontract Costs" under Section 7.3.
2. The Construction Manager's bid or proposal shall reflect the requirements of this section and shall specify a guaranteed maximum amount for the Self-Performed Work. The Owner's obligation to reimburse for Self-Performed Work shall not exceed the specified and agreed-upon guaranteed maximum price for such Self-Performed Work.
 3. All savings arising from Self-Performed Work shall be applied to reduce the Guaranteed Maximum Price of this Agreement.
 4. For purposes of defining Self-Performed Work, any division of Construction Manager, or any separate contractor or subcontractor that is partially owned or wholly owned by the Construction Manager, or any of Construction Manager's parent companies, employees, or employee's relatives will be considered a related party entity and any work performed by such entity will be considered Self-Performed Work by the Construction Manager.
 5. No Self-Performed Work will be allowed to be performed on a lump-sum basis.
 6. If the Construction Manager does not self-perform the majority of the scope of Self-Performed Work and as a result subcontracts a significant portion of the scope of work to another trade contractor, then no self-performed work fees will apply to the cost of any such work.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior written approval.

§ 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 limited to the personnel and activities listed below:

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

None

§ 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.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for payroll taxes, but not any taxes for which the Owner is exempt by virtue of its status as a governmental entity, insurance as required by the Contract Documents, 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.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall not increase 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 and this Agreement. To the extent that the Construction Manager is allowed by law and by the Contract Documents to perform work with its own forces, the parties agree that those costs will not be considered Subcontract Costs under this Section 7.3, but, rather, are subject to reimbursement to the extent provided elsewhere in this Article 7.

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

§ 7.4.1 Costs, including transportation and 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 Costs of transportation, storage, 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 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior written approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies necessary for the performance of the Work.

§ 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 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

(Paragraphs deleted)

§ 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.

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

(Paragraphs deleted)

§ 7.6.7 Reasonable costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes directly resulting from the Owner's actions.

(Paragraphs deleted)

§ 7.7 Other Costs and Emergencies

(Paragraph deleted)

§ 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 as amended.

(Paragraphs deleted)

§ 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 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 may be explicitly allowed elsewhere in Article 7;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any subcontractor or vendor;
- .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 that would cause the Guaranteed Maximum Price to be exceeded;
- .9 Costs for services incurred during the Preconstruction Phase;
- .10 Costs incurred because of the negligence, breach of contract, or other misconduct of the Construction Manager or any subcontractor;
- .11 Delay damages or claims, including but not limited to acceleration costs; and
- .12 Storage costs, unless with prior written approval of the Owner.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts, 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 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 furnish to Owner and Architect for the Owner's approval prior to any public advertisement or solicitation for the portion of the Work, the evaluation criteria that the Construction Manager proposes to use in recommending qualified trade contractors or subcontractors for each portion of the Work that will provide the best value for the Owner. After acceptance of the GMP proposal, 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. All subcontracts for the Project shall be awarded in accordance with the Texas Government Code, Chapter 2267, Subchapter F.

§ 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; (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, and (4) offers the best value to the Owner, then the Construction Manager may request 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 The Construction Manager shall include the following specific notices in the information to proposers, along with any other notices required by law:

- .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; and
- .4 The notice regarding trench and shoring safety required by Texas Health and Safety Code Section 756.023.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Project, 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 shall 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 final payment, or for such longer period as may be required by law.

All records shall be maintained in accordance with generally accepted accounting principles and procedures, consistently applied. Subcontractors retained by the Construction Manager on a cost-plus basis shall have the same obligations to retain records and cooperate with audits as are required of the Construction Manager under this Article 10.

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, subject to Owner's right to request a rescission or amendment of the Architect's certification, and further subject to any right Owner may have under the Contract Documents to withhold or otherwise reduce payment.

§ 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 Architect will, within seven days after receipt of the Construction Manager's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Construction Manager, for such amount as the Architect determines is properly due, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Paragraph 9.5 of the AIA Document A201-2017, as amended by the parties. Owner shall make payment for amounts properly due pursuant to the requirements of the law. Notwithstanding such certification for payment by the Architect however, Owner shall be entitled to withhold payment to such extent as may be necessary in the Owner's opinion, reasonably supported, to protect the Owner from loss for which the Construction Manager is responsible, including loss of the reasons listed in 9.5.1 of the AIA Document A201-2017, as amended. Such withholding of such payment by owner shall not be deemed a breach of the Contract Documents nor a failure to make timely payment.

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit upon Owner's request, 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. Additionally, with each Application for Payment, the Construction Manager shall submit a "buyout report" that accurately reflects the status (including monetary amounts) of all contracts entered into by the Construction Manager for performance of the Work.

§ 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 shall allocate the entire Guaranteed Maximum Price among: (1) the various portions 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.

§ 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 may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 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 and Owner.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. 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) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201-2017 as amended 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 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 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 as amended;
- .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 in such documentation;
- .6 Retainage withheld pursuant to Section 11.1.8; and
- .7 Liquidated damages as provided in this Agreement, except that Owner may elect to subtract such amounts from any subsequent pay application.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Final 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.)

Five percent (5%)

§ 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.)

None

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be 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.)

None

(Paragraphs deleted)

§ 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.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In submitting the Construction Manager's Applications for Payment the Construction Manager shall be responsible for all errors and omissions.

§ 11.1.13 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.

§ 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, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, as amended, and to satisfy other requirements, if any, which 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 personnel; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2 and approved by the Owner.

§ 11.2.2 Within 30 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. It is the Construction Manager's responsibility to ensure that the final accounting it submits is full and complete. Owner may deduct from any payment otherwise owed to Construction Manager any amount that Owner or Owner's auditor determines is not supported by the Construction Manager's final accounting. Additionally, any amount paid by the Owner in excess of that required by this Agreement shall be, at Owner's election, either withheld from any payment otherwise due to Construction Manager, or returned by Construction Manager within seven days of the date Construction Manager becomes aware of such overpayment.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 30 days after completion of the audit, submit a written report based upon the auditors' 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 agents or representatives of the Owner's 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 request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017, as amended. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors or other agents or representatives of the Owner becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall, subject to all of the Owner's rights to withhold payment or otherwise deduct amounts, 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 issuance of the Architect's final Certificate for Payment, or as otherwise allowed by law.

(Paragraph deleted)

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest

(Paragraphs deleted)

as provided by law.

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. The Claims process set forth in this Article 12 and in Article 15 of the applicable A201 shall constitute an independent "contractual adjudication procedure" as that term is used in Texas Local Government Code Chapter 271 Subchapter I.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 (Paragraphs deleted) as amended.

§ 12.2 Binding Dispute Resolution

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

N/A

Litigation in a court of competent jurisdiction, subject to any other requirements that may need to be satisfied prior to the commencement of litigation.

N/A

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.

§ 12.3. Contractual Adjudication Procedure for all Claims and Disputes

.1 The requirements of this Section 12.3 shall constitute an independent "contractual adjudication procedure" as that term is used in Texas Local Government Code Chapter 271 Subchapter I.

.2 **Pre-Litigation Grievance and Mediation.** Any claim, dispute or other matter in question that Construction Manager has against Owner shall be subject to full exhaustion of the grievance procedure found in Owner's GF (LOCAL) policy and non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by Construction Manager. In the case of any such claim, dispute, or other matter, by the Construction Manager against the Owner, including, but not limited to, any claim that the Owner has breached a contract, the Construction Manager may not file a lawsuit or demand mediation until the complaint procedure found in Owner's GF (LOCAL) policy has been fully exhausted regarding the contested matter. A copy of this policy is attached hereto and incorporated herein as Exhibit A-1. The Construction Manager's failure to timely file a grievance under policy GF (LOCAL), meet any requirement of this Article 12, or otherwise fully exhaust policy GF (LOCAL) in accordance with the policy's requirements is a failure to adhere to contractual adjudication procedures, a failure to exhaust remedies, a failure to fulfill conditions precedent, constitutes waiver, and is a bar to suit against the Owner.

a. The timelines under Policy GF (LOCAL) are amended for purposes of this Agreement as follows: Construction Manager's complaint must be reduced to writing and filed within ninety (90) calendar days of the date the Construction Manager first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint. If the Construction Manager fails to meet this timeline, the Construction Manager will have failed to exhaust this remedy, will have failed to adhere to this contractual adjudication procedure, will have failed to fulfill conditions precedent to suit, will have waived the complaint, and will be barred from suing the Owner.

b. Construction Manager agrees that, in order to fully exhaust its remedies under policy GF (LOCAL) and otherwise comply with this Section 12.3, Construction Manager must identify

and articulate in writing the specific factual and legal basis for its claims. Any basis that is not identified and articulated by the Construction Manager as part of its complaint under GF (LOCAL) is waived by the Construction Manager and may not be asserted in any subsequent proceeding against the Owner.

- c. The following are each an independent condition precedent to the institution of civil proceedings by the Construction Manager against the Owner concerning the contested matter: 1) full exhaustion of claims through Owner's GF (LOCAL) policy as described herein, 2) full exhaustion of the Claims process referenced in this Agreement and the applicable A201, 3) a written demand by the Construction Manager for mediation, and 4) good faith and full participation in the mediation process.
- d. Following the full exhaustion of claims through Owner's GF (LOCAL) procedure, and upon receipt by Owner of Construction Manager's written demand for mediation, Owner may, at its option, either proceed with non-binding mediation of the dispute, or provide written notice to Construction Manager of Owner's decision to waive its right to compel such mediation. Owner's voluntary participation in any mediation or any other settlement discussions shall not be construed as a waiver of any failure by Construction Manager to exhaust remedies, follow contractual adjudication procedures, or otherwise comply with the Contract Documents. If the parties participate in mediation, the parties shall share the mediator's fee and any filing fees equally.

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, 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.

§ 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, solely as provided in Article 5, and shall have no other recovery. 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 compensated for Preconstruction Phase services. 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 pursuant to a written agreed-upon Work Authorization Amendment, 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 performed 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 for Construction Phase services; and
- .4 Credit Owner for claims, credits, offsets, and deductions to which the Owner is entitled under the Contract Documents.

§ 13.1.6 The Owner shall also pay the Construction Manager, 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, 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;
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017; and
- .5 Credit Owner for claims, credits, offsets, and deductions to which the Owner is entitled under the Contract Documents.

§ 13.2.2.2 The Owner shall also pay the Construction Manager, 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 pay the Construction Manager a termination fee as follows:

(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.)

None

§ 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 and Contract Time may be increased as provided in Article 14 of AIA Document A201–2017 as amended.

§ 13.4. Damages

In no event shall the Construction Manager be entitled to recover for overhead, lost profits, benefit of the bargain damages, consequential damages, lost opportunity costs, impact damages, damage to reputation, financing costs, loss of productivity, stand-by time, demobilization costs, termination costs, loss of surety bonding capacity, or other damages by reason of any termination or suspension by Owner or the Construction Manager. Construction Manager expressly waives any such claims. This Section 13.4 shall not be interpreted to support any claim for damages by the Construction Manager.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 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. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017 as amended, neither party to the Contract shall assign the Contract as a whole 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.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201–2017, as amended.

The Construction Manager shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Construction Manager's usual source, and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum.

The Construction Manager shall deliver the required bonds to the Owner at least three days before the commencement of any Work at the Project site.

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

§ 14.5 Other provisions:

§ 14.5.1 The right to the recovery of attorney's fees available under Texas Local Government Code Chapter 271, Subchapter I is hereby waived.

§ 14.5.3 No delay or omission by Owner in exercising any right or power accruing upon the noncompliance or failure of performance by the Construction Manager 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 of any breach by either of the parties of any covenant, condition or agreement shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

§ 14.5.4 Construction Manager shall require all construction workers, whether Construction Manager's own forces, or the forces of Construction Manager'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 have identification of the construction worker by number or other identifying medium in a typeface large enough to be seen from a reasonable distance.

§ 14.5.5 Construction Manager shall require all construction workers, whether Construction Manager's own forces or the forces of Construction Manager'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 may be towed at the vehicle owner's sole expense.

§ 14.5.6 Construction Manager shall follow, and shall require all employees, agents or subcontractors to follow all applicable ordinances of the municipality or municipalities in which the Project is located, including the tree ordinance, if applicable. If not covered by the municipal tree ordinance, Construction Manager shall barricade and protect all trees on the Project, which shall be included in the Cost of the Work.

§ 14.5.7 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 the 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."

§ 14.5.8 Construction Manager stipulates that Owner is a political subdivision of the State of Texas, and, as such, may enjoy immunities from suit and 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 required by law.

§ 14.5.9 This Agreement is subject to all applicable federal and state laws, rules, and regulations.

§ 14.5.10 This Section 14.5.10 only applies if Construction Manager has more than 10 full time employees and the Agreement is valued at \$100,000 or more. By executing this Agreement, Construction Manager verifies the following:

- .1 as required by Texas Government Code 2270.002: Construction Manager verifies that it does not boycott Israel and will not boycott Israel during the term of this contract.
- .2 as required by Texas Government Code 2274.002, Construction Manager verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association.
- .3 as required by Texas Government Code 2274.002, Construction Manager verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract.

§ 14.5.11. The Construction Manager agrees and stipulates that the unpaid portion of the Contract Sum (up to the Guaranteed Maximum Price established in the GMP Amendment and as subject to modification by means of a Modification as defined in the A201 General Conditions applicable to the Project), is the absolute maximum amount that could ever possibly be due and owing under this Agreement from Owner to Construction Manager. The Construction Manager hereby waives any claim against Owner for any amount in excess of the amount stipulated in this Section 14.5.11. The Construction Manager's agreement, stipulation, and waiver under this section are each a material inducement to Owner's agreement.

§ 14.6 Contracting Information

§ 14.6.1 This Section 14.6 applies only if, per Texas Government Code §552.371(a), (1) the Agreement has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the governmental body; or (2) the Agreement results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the Owner in a fiscal year of the Owner.

§ 14.6.2 Pursuant to Texas Government Code §552.372, the Construction Manager must:

- (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the Owner for the duration of the contract;
- (2) promptly provide to the Owner any contracting information related to the contract that is in the custody or possession of the entity on request of the Owner; and
- (3) on completion of the contract, either:
 - (a) provide at no cost to the Owner all contracting information related to the contract that is in the custody or possession of the entity; or

(b) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the Owner.

§ 14.6.3 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Contractor or vendor agrees that the contract can be terminated if the Contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

§ 14.6.4 "Contracting information" is defined by Texas Government Code §552.003(7) and means the following information maintained by a governmental body or sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor:

- (A) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body;
- (B) solicitation or bid documents relating to a contract with a governmental body;
- (C) communications sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;
- (D) documents, including bid tabulations, showing the criteria by which a governmental body evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and
- (E) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

§ 14.7 The Construction Manager shall not execute a contract with any subcontractor that contains an agreement or provision to arbitrate claims. In the event that a subcontractor seeks to arbitrate a claim arising out of or relating to the Contract Document or this Project, Construction Manager shall not seek to join in such or any other arbitration proceeding relating to this Project.

§ 14.8 Construction Manager agrees to waive any claim it has or may have against the Owner, the Architect, and their respective employees and officers, arising out of or in connection with the administration, evaluation, or recommendation of any bid or proposal; waiver of any requirements under the procurement documents related to this Project; the Contract Documents; acceptance or rejection of any bids or proposals; and award of the Contract.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement 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 Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 This modified 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, if executed
(Paragraphs deleted)
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction, as amended
(Table deleted)
- .7 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Exhibit A-1 – Owner's GF (LOCAL) Board Policy

Exhibit B – Prevailing Wage Rate Schedule (see Section 3.4.1.1 of the A201 General Conditions, as amended)

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

OWNER *(Signature)*

(Printed name and title)

DATE

[Handwritten Signature]

CONSTRUCTION MANAGER *(Signature)*
[Handwritten Signature]

(Printed name and title)
[Handwritten Signature]

DATE

Init.

[Handwritten Initials]

Belton Independent School District
Board of Trustee Meeting Agenda Item

November 14, 2022

Item: Additions/Revisions/Deletions of (LOCAL) Policies Resulting from the Policy Review Sessions Conducted on March 8, 2022, with Drafts Prepared by TASB Policy Service – 2nd Reading

Contact Person: Matt Smith

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 1: Strengthen and support the engagement of all stakeholders in the pursuit of the BISD vision.

Goal 2: Ensure exceptional learning experiences for each and every student.

Goal 3: Attract, retain, and support a world-class team of employees.

Goal 4: Develop a district-wide culture of value, support, and growth amongst all students and staff.

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

Background Information:

In March, TASB Policy Service conducted an extensive review of Belton ISD’s policies which included administrative training and a review conducted with administrative staff. A one-hour Board training session on policy development and fundamentals was also conducted during a special meeting on March 8, followed by a second special meeting to discuss specific policies related to board operations and other policies presented for discussion.

As a result, TASB Policy Service has provided the District with a list of proposed policy changes to better reflect the District’s current practices, omit provisions that are no longer necessary in board policy, and align with current law. While there are 26 proposed policies, the administration plans to work through the list a few at a time over the course of the year.

The Policy Committee reviewed these policies on 1st reading at its meeting on Monday, October 31, 2022. No changes are being made to what has been proposed by TASB Policy Service, with the exception of EHBAF(LOCAL):

1. DEE(LOCAL): Compensation and Benefits - Expense Reimbursement

The recommended change adds an exception that allows overnight travel meals to be paid on a per diem basis if paid from local funds. Itemized receipts are required for travel paid from state and federal grants. This aligns with current practice and procedures.

2. EHBAF(LOCAL): Special Education - Video/Audio Monitoring

The recommended change places the Executive Director of Special Programs as the initial person receiving a concern and then communicated to the appropriate additional administrators.

3. FJ(LOCAL): Student Fundraising

The recommended change adds language that the district's policies and procedures will address the approval and reporting of fundraising activities. Students may fundraise with the approval of the principal, as long as it is managed by a district employee. Participation shall be voluntary and must relate to the district's educational purposes. Fundraising may not be permitted during class time and cannot compete with the school lunch program. The changes do not conflict with current policies and procedures.

Fiscal Implications:

None

Administrative Recommendation(s):

The Administration recommends that the Board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service resulting from the Policy Review Sessions conducted on March 8, 2022.

PROPOSED REVISIONS

**Prior Approval
Required**

An employee shall be reimbursed for reasonable, allowable expenses incurred in carrying out District business only with the prior approval of the employee's supervisor and in accordance with administrative regulations.

**Documentation
Required**

For any allowable expense incurred, the employee shall submit a statement, with receipts to the extent feasible, documenting actual expenses.

Exception

Expenses for meals associated with authorized overnight travel not related to a state or federal grant shall be paid to employees on a per diem basis. No receipts shall be required for expenses paid on a per diem basis.

PROPOSED REVISIONS

Note: Unless otherwise noted, the terms “video recording,” “video surveillance,” and “video monitoring” shall also include any associated audio recordings. In addition, the term “classroom” shall also include other special education settings subject to video and audio recording required by law.

To promote student safety, the District shall comply with requests for video and audio monitoring of certain self-contained special education classrooms as required by law. Regular or continual monitoring of video recordings shall be prohibited. Video recordings shall not be used for teacher evaluation or monitoring or for any purpose other than the promotion of student safety.

The Superintendent is responsible for coordinating the provision of equipment to campuses in compliance with the law.

The Superintendent shall ensure that administrative regulations are developed to implement this policy.

Requests

For Following Year

A parent of a student receiving special education services and whose placement for the following school year will be in a self-contained classroom eligible for video surveillance may request in writing that a video camera be placed in the classroom by the end of the current school year or by the tenth business day after the student’s admission, review, and dismissal (ARD) committee determines the student’s placement, whichever is later. If such a request is made, the campus shall begin operation of the camera by the deadlines in law.

For Current Year

Written requests from a parent, assistant principal, principal, staff member, or the Board shall be submitted and processed in accordance with the procedures in law.

Response

As required by law, the District shall provide a response to the requester not later than the seventh business day after receipt of the request.

Notice

Before a camera is activated, the principal shall provide advance written notice to staff on the campus and to parents of the students assigned to or engaging in school activities in the classroom that video and audio surveillance will be conducted in the classroom.

**Installation and
Operation**

The classroom subject to the request shall begin operation of video surveillance not later than the time frames required in law, except when the District is granted an extension of time.

When the District has installed video cameras in a classroom as required by law, the District shall operate the cameras during the instructional day at all times when one or more students are in the classroom. For purposes of this policy, the instructional day shall be defined as the portion of a school day during which instruction is taking place in the classroom.

For the school year in which a campus receives a request for video and audio surveillance, the campus shall continue to operate and maintain any video cameras placed in the classroom for as long as the classroom continues to satisfy the requirements in Education Code 29.022(a). However, the campus may discontinue operation of the video camera during the year if the requester withdraws the request in writing and no request is submitted to continue the surveillance. Before a camera is deactivated, the principal shall provide advance written notice to staff on the campus and to parents of the students assigned to or engaging in school activities in the classroom that video and audio surveillance will be discontinued in the classroom and of the opportunity to request continued video and audio surveillance.

Video cameras must be capable of recording video and audio of all areas of the classroom, including a room attached to the classroom used for time out as defined by law. No visual monitoring, other than incidental coverage, shall be conducted of the inside of a bathroom or other area used for changing a student's clothes.

The District shall post notice at the entrance to a classroom in which video cameras are placed stating that video and audio surveillance is conducted in that classroom.

Retention of Recordings

Video recordings shall be retained for at least three months after the date of the recording but may be retained for a longer period in accordance with the District's records management program, or as required by law. [See CPC]

Confidentiality of Recordings

Video recordings made in accordance with this policy shall be confidential and shall only be released or viewed by the individuals and in the limited circumstances permitted by law. The following individuals shall have authority to view video recordings to the extent permitted by the Family Educational Rights and Privacy Act (FERPA):

1. A District employee or a parent of a student who is involved in an alleged incident documented by a recording and reported to the District;

2. Appropriate Department of Family and Protective Services (DFPS) personnel as part of an investigation of alleged abuse or neglect of a child;
3. A peace officer, school nurse, District administrator trained in de-escalation and restraint techniques, or human resource staff member in response to a report of an alleged incident or an investigation of an employee or a report of alleged abuse committed by a student; and
4. Appropriate Texas Education Agency or State Board for Educator Certification personnel or their agents as part of an investigation.

For purposes of this policy, the term “human resource staff member” shall include the Superintendent or other District administrator. If an individual listed in items 2–4 above believes that a recording shows a violation of District policy or campus procedures, the individual may allow access to the recording by appropriate legal and human resources personnel designated by the District for the purpose of determining whether a policy or procedure has been violated.

Any person who suspects that child abuse or neglect has occurred shall report this suspicion as required by law and District policy.
[See FFG]

Reporting an Incident

A person alleging that an incident, as defined by law, has occurred in a classroom in which video surveillance is conducted shall file a written report with the principal as soon as possible after the person suspects the alleged incident. The principal shall promptly provide the ~~executive director of special programs assistant superintendent of operations for student services~~ the report, and along with the appropriate administrators shall promptly view, or direct an authorized individual to view, the video surveillance footage to identify the relevant portion of the recording. No later than ten District business days after the report is filed, the ~~executive director of special programs assistant superintendent of operations for student services~~ or designee shall respond by notifying the person whether the alleged incident was recorded in the District’s video surveillance footage and shall initiate other steps as required by law, District policy, or local procedures.

Complaints

Complaints related to video and audio recordings under this policy shall be filed in accordance with DGBA, FNG, or GF, as applicable. A complainant who is dissatisfied with the outcome of the District’s complaint process may appeal in writing to the commissioner of education in accordance with Education Code 7.057 and 19 Ad-

ministrative Code 103.1303. A parent, staff member, or District administrator may request an expedited review in accordance with 19 Administrative Code 103.1303.

PROPOSED REVISIONS

Administrative regulations shall address student fundraising plans, approval of fundraising activities, and any required reporting on fundraisers by campus administrators.

With at least one employee managing each project, students representing their school or the District may participate in approved fundraising to benefit the District or a nonschool, charitable organization. Participation shall be voluntary and shall be approved only when the fundraising activity relates to the District's educational mission.

A fundraising project to support a student or a student's immediate family member or an employee or employee's immediate family member shall require the approval of the principal. For purposes of this policy, "immediate family" shall include a spouse, child, parent, or sibling.

***Comment:** If the district would like to expand the definition of immediate family please revise this section of the policy. For reference regarding this definition, please refer to policy DEC(LOCAL).*

Fundraising shall not be permitted during class time. [See EC]

Fundraising through sales of foods and beverages that could be consumed during the school day shall meet the requirements for competitive foods unless the District allows an exception from the competitive food requirement, as permitted by state and federal law. [See CO and FFA]

School-Sponsored

~~Fundraising activities by student groups and/or for school-sponsored projects shall be allowed, with prior administration approval and under the supervision of the project sponsor, for students in all grades.~~

~~All fundraising projects shall be subject to the approval of the principal and Superintendent.~~

~~Student participation in approved fundraising activities shall not interfere with the regular instructional program. [See EC]—Funds raised shall be received, deposited, and disbursed in accordance with CFD(LOCAL).~~

By Outside Organizations

~~No outside organizations of any sort may solicit contributions of any type from students, within the schools.~~

Loss of Class Time

~~The collection of monies that takes the time of the students or teachers during school hours is strictly forbidden, unless the monies collected represent payment for school lunches, monies that~~

~~will benefit the school or its students, or other authorized fees. [See also FP]~~

Belton Independent School District
Board of Trustee Meeting Agenda Item

November 14, 2022

Item: Revisions to FDA(LOCAL): Admissions, Interdistrict Transfers - 2nd Reading

Contact Person: Michael Morgan

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 2: Ensure exceptional learning experiences for each and every student.

Background Information:

Board Policy FDA(LOCAL) provides criteria for approval and revocation of interdistrict transfers. Clarifying language was added to the Revocation section, part 7. Changes are being made to align policy and practice between FDA(LOCAL) and the transfer agreement. The 1st reading of this policy was held at the Policy Committee meeting on October 31.

Fiscal Implications:

NA

Administrative Recommendation(s):

Approve the revision to Policy FDA(LOCAL) as presented.

PROPOSED REVISIONS

Note: This local policy has been revised in accordance with the District's [innovation plan](#).¹

Authority

The Superintendent is authorized to accept or reject any transfer requests, provided that such action is without regard to race, religion, color, sex, disability, national origin, or ancestral language.

A resident student who becomes a nonresident during the course of a semester shall be permitted to continue in attendance for the remainder of the semester.

Transfer Requests

A nonresident student wishing to transfer into the District shall file an application for transfer each school year with the Superintendent or designee. Transfers shall be granted for one regular school year at a time.

Criteria

In evaluating a request for transfer, the Superintendent or designee shall consider:

1. Program needs of the student and program availability of the campus;
2. Available space of the school to which the student requests a transfer;
3. UIL rules; and
4. A student's attendance and/or discipline history.

Revocation

The Superintendent may revoke an interdistrict transfer for one or more of the following reasons:

1. Violation of standards contained in the Student Code of Conduct or student handbook;
2. Unacceptable attendance;
3. Space unavailability;
4. Any District exigency that would require adjustments in campus enrollment;
5. Nonpayment of tuition;
6. False information was provided on the interdistrict student transfer form; or
7. Other reasons that may be determined by the administration and as reflected in the transfer application/agreement.

PROPOSED REVISIONS

District Employees	A District employee may request an interdistrict transfer for his or her child to any District campus. Prior to approval by the Superintendent or designee, the District employee's child must meet all criteria established in policy.
Transfer Agreements	<p>A transfer student shall be notified in the written transfer agreement that he or she must follow all rules and regulations of the District.</p> <p>In accordance with the District's innovation plan, the District is exempt from state law requiring transfers to be for a one-year period. Therefore, violation of the terms of the agreement may result in revocation of the agreement during the school year or may result in a transfer request not being approved the following year.</p>
Campus Assignment	<p>Approved interdistrict transfer students shall be assigned to the campus in closest proximity to his or her home address. If that campus cannot accommodate the transfer due to space, the student will be placed at the campus in next-closest proximity until a campus with available space is found. This shall not apply to interdistrict transfer of an employee's child.</p> <p>Exception</p> <p>An interdistrict transfer student who has attended a specific District high school for at least six semesters and whose transfer request has been approved may be assigned to the same high school where the student completed the previous six semesters.</p>
Transportation	The District shall not provide transportation for interdistrict transfer students.
Closed Campuses	Campus capacities will be reviewed annually. Campuses that are at their capacity threshold will be closed to any new interdistrict transfers.
Tuition	If the District charges tuition, the amount shall be set by the Board, within statutory limits.
Military Discount	A child who has a parent who is an active duty member of the military shall receive a 50 percent discount of tuition.
Waivers	The Superintendent or designee may waive tuition for a student based on financial hardship upon written application by the student, parent, or guardian. [See FP]
Nonpayment	The District may initiate withdrawal of students whose tuition payments are delinquent. The withdrawal shall take place at the conclusion of the semester.
Appeals	Any appeals shall be made in accordance with FNG(LOCAL) and GF(LOCAL), as appropriate.

¹ Innovation Plan: <https://www.bisd.net/Page/369>

Note: This local policy has been revised in accordance with the District's [innovation plan](#).¹

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The Superintendent is authorized to accept or reject any transfer requests, provided that such action is without regard to race, religion, color, sex, disability, national origin, or ancestral language.

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2. Available space of the school to which the student requests a transfer;
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2. Unacceptable attendance;
3. Space unavailability;
4. Any District exigency that would require adjustments in campus enrollment;
5. Nonpayment of tuition;
6. False information was provided on the interdistrict student transfer form; or
7. Other reasons that may be determined by the administration and as reflected in the transfer application/agreement.

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Transfer Agreements	<p>A transfer student shall be notified in the written transfer agreement that he or she must follow all rules and regulations of the District.</p> <p>In accordance with the District's innovation plan, the District is exempt from state law requiring transfers to be for a one-year period. Therefore, violation of the terms of the agreement may result in revocation of the agreement during the school year or may result in a transfer request not being approved the following year.</p>
Campus Assignment	Approved interdistrict transfer students shall be assigned to the campus in closest proximity to his or her home address. If that campus cannot accommodate the transfer due to space, the student will be placed at the campus in next-closest proximity until a campus with available space is found. This shall not apply to interdistrict transfer of an employee's child.
Exception	An interdistrict transfer student who has attended a specific District high school for at least six semesters and whose transfer request has been approved may be assigned to the same high school where the student completed the previous six semesters.
Transportation	The District shall not provide transportation for interdistrict transfer students.
Closed Campuses	Campus capacities will be reviewed annually. Campuses that are at their capacity threshold will be closed to any new interdistrict transfers.
Tuition	If the District charges tuition, the amount shall be set by the Board, within statutory limits.
Military Discount	A child who has a parent who is an active duty member of the military shall receive a 50 percent discount of tuition.
Waivers	The Superintendent or designee may waive tuition for a student based on financial hardship upon written application by the student, parent, or guardian. [See FP]
Nonpayment	The District may initiate withdrawal of students whose tuition payments are delinquent. The withdrawal shall take place at the conclusion of the semester.
Appeals	Any appeals shall be made in accordance with FNG(LOCAL) and GF(LOCAL), as appropriate.

Belton ISD
014903

ADMISSIONS
INTERDISTRICT TRANSFERS

FDA
(LOCAL)

¹ Innovation Plan: <https://www.bisd.net/Page/369>

Belton Independent School District
Board of Trustee Meeting Agenda Item

November 14, 2022

Item: Revisions to FDB(LOCAL): Admissions, Intradistrict Transfers and Classroom Assignments - 2nd Reading

Contact Person: Michael Morgan

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 2: Ensure exceptional learning experiences for each and every student.

Background Information:

Board Policy FDB(LOCAL) provides criteria for approval and revocation of intradistrict transfers and classroom assignments. Clarifying language was added to the Revocation section, part 6. Changes are being made to align policy and practice between FDB(LOCAL) and the transfer agreement. The 1st reading of this policy was held at the Policy Committee meeting on October 31.

Fiscal Implications:

NA

Administrative Recommendation(s):

Approve the revision to Policy FDB(LOCAL) as presented.

PROPOSED REVISIONS

	<p>A student shall be assigned to a school in the attendance area in which he or she resides.</p>
Class Changes	<p>The campus principal shall be authorized to investigate and approve the transfer of a student from one classroom to another on that campus.</p>
Transfers Between Schools	<p>The Superintendent shall be authorized to investigate and approve transfers between schools.</p>
Transfer Requests	<p>All transfer requests shall be submitted each year for review. In evaluating a request for transfer, the following criteria shall be considered:</p>
Criteria	<ol style="list-style-type: none">1. Program needs of the student and program availability of the campus;2. Available space of the school to which the student requests a transfer;3. Extraordinary family considerations;4. UIL rules; and5. A student's attendance and/or discipline history.
Revocation	<p>The Superintendent may revoke an intradistrict transfer to a campus for one or more of the following reasons:</p> <ol style="list-style-type: none">1. Violation of standards contained in the Student Code of Conduct or student handbook;2. Unacceptable attendance;3. Space unavailability;4. Any District exigency that would require adjustments in campus enrollment;5. False information was provided on the intradistrict transfer form; or6. Other reasons that may be determined by the administration <u>and as reflected in the transfer application/agreement.</u>
Campus High School Assignment	<p>An intradistrict transfer student who has attended a specific District high school for at least six semesters and whose transfer request has been approved may be assigned to the same high school where the student completed the previous six semesters.</p>

ADMISSIONS
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB
(LOCAL)

Transportation

District transportation shall not be provided for intradistrict transfer students.

District Employees

A District employee may request an intradistrict transfer for his or her child to any District campus. Prior to approval by the Superintendent or designee, the District employee's child must meet all criteria established in this policy.

Closed Campuses

The Superintendent shall review campus capacities annually. Campuses that are at their capacity threshold shall be closed for purposes of accepting any new intradistrict transfers.

Note: For the transfer of a student who is the victim of bullying or who engaged in bullying, see FDB(LEGAL). For the transfer of a student who attends a persistently dangerous school, becomes a victim of a violent criminal offense, or becomes a victim of sexual assault, see FDE.

	<p>A student shall be assigned to a school in the attendance area in which he or she resides.</p>
Class Changes	<p>The campus principal shall be authorized to investigate and approve the transfer of a student from one classroom to another on that campus.</p>
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Campus High School Assignment	<p>An intradistrict transfer student who has attended a specific District high school for at least six semesters and whose transfer request has been approved may be assigned to the same high school where the student completed the previous six semesters.</p>
Transportation	<p>District transportation shall not be provided for intradistrict transfer students.</p>

ADMISSIONS
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB
(LOCAL)

District Employees

A District employee may request an intradistrict transfer for his or her child to any District campus. Prior to approval by the Superintendent or designee, the District employee's child must meet all criteria established in this policy.

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Note: For the transfer of a student who is the victim of bullying or who engaged in bullying, see FDB(LEGAL). For the transfer of a student who attends a persistently dangerous school, becomes a victim of a violent criminal offense, or becomes a victim of sexual assault, see FDE.

Belton Independent School District
Board of Trustee Meeting Agenda Item

November 14, 2022

Item: Additional Certified T-TESS Appraisers for 2022-2023

Contact Person: Calvin Itz

Presented for: Action Report Only

Supporting Documents: None Attached Provided Later

District Goal or Objective Addressed:

Goal 3: Attract, retain, and support a world-class team of employees.

Background Information:

In accordance with Policy DNA(LOCAL), the Board shall approve a list of certified Texas Teacher Evaluation and Support System (T-TESS) appraisers who can appraise a teacher in place of the teacher's supervisor.

Attached is a list of additional certified T-TESS appraisers for 2022-2023

Fiscal Implications:

N/A

Administrative Recommendation(s):

Approve the attached list of additional certified T-TESS appraisers for 2022-2023.



Belton Independent School District

Department of Human Resources

P. O. Box 269*Belton, TX 76513*254-215-2015*FAX 254-215-2016

Additional Certified T-TESS Appraisers 2022-2023

The following is an additional certified T-TESS appraiser to be added to the approved list of certified T-TESS appraisers:

Nicole Suman

UPCOMING EVENTS OCTOBER/NOVEMBER 2022

Date	Event
Monday, October 31	Policy Committee Meeting at 5:00 pm in the Bronco Room
Monday, November 7	Facilities Committee Meeting at 5:00 pm in the Bronco Room
Friday, November 11	Veterans Day Holiday – BISD Closed
Monday, November 14	Third House Session with Rep. Shine at 7:00 am at Belton Chamber
Monday, November 14	Board Workshop/Regular Meeting at 5:00 pm and 6:15 pm
Wednesday, November 16	LBHS Academic Awards Ceremony at 5:30 pm at LBHS PAC
Wednesday, November 16	BHS Academic Awards Ceremony at 6:30 pm at BHS PAC
Thursday, November 17	BNT@W Academic Awards Ceremony at 5:30 pm at PFAC
November 21-25	BISD Closed for Fall Break