

Agenda of Regular Meeting and Public Hearing on the 2025-2026 ECISD Targeted Improvement Plans and Local Improvement Plans

The Board of Trustees Ector County Independent School District

A Regular Meeting and Public Hearing on the 2025-2026 ECISD Targeted Improvement Plans and Local Improvement Plans of the Board of Trustees of Ector County Independent School District will be held March 24, 2026, beginning at 6:00 PM.

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

1. Call to Order - Roll Call
2. Verification of Compliance with Open Meeting Law - this is to certify that the provisions of Section 551.001 of the Texas Government code have been met in connection with public notice of this meeting.
3. Pledge Allegiance to US and Texas Flags:
Gonzales Elementary School Students Gabriel Ramirez and Darell Naranjo Rivera
4. Invocation: Pastor Joshua Zuniga, Kingdom Church
5. Special Presentations:
ECISD Purchasing Department received Texas Association of School Business Officials 2026 Award of Merit for Purchasing Operations
Executive Director of Athletics Tracey Borchardt named Region 2 Athletic Director of the Year
2025 Texas All-State Football Players from Blue Bell/Texas Sportswriters Association
Recognition of Odessa High School Mariachi Broncho State Qualifier
Introduction of Academic Decathlon State Qualifiers
6. Opening Remarks by Superintendent
7. Public Comment
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13. Possible Request for Approval to Move to Closed Meeting - Personnel Matters - Section 551.074 of the Texas Government Code [Board will deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of public employees of the District, or hear a complaint or charge against an officer or employee.]; Security Personnel, Devices or Security Audits - Section 551.076 of the Texas Government Code. (Intruder Detection Audit Finding for Discussion); Consultations with Attorney - Section 551.071 of the Texas Open Meetings Act [The Board will meet in Closed Session in Consultation with the Board's Attorney Regarding all Matters as Authorized by Law.]	
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Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Anthony Sorola, Associate Superintendent of Operations

SUBJECT: DISCUSSION OF AND REQUEST FOR APPROVAL OF REVISIONS TO BOARD POLICY CW (LOCAL): NAMING FACILITIES

DATE: March 24, 2026

The Ector County ISD administration recently created a guideline, CW (Regulation) that addresses facility naming requests for parts of a facility (e.g., Blackshear ES auditorium, Dowling ES playground, Bonham MS football field). This regulation works in conjunction with CW (Local): Naming Facilities. CW (Local) will continue to address naming of an entire school campus or district facility (e.g., new CTE Facility, Vasquez Middle School). The recommended revision to CW (Local) acknowledges the existence and validity of the regulation. Additional language also now allows for a facility to be named for a business or organization that has made significant contributions towards the construction or renovation of a facility.

Administrative Recommendation:

The administration requests that the Board reviews the revision to CW(LOCAL) and provides approval at the next Board meeting.

PROPOSED REVISIONS

Guidelines

The following guidelines shall be used in the naming of school buildings or other facilities in the District:

1. Facilities may be named for ~~persons~~individuals who served the District or community, especially in service to children.
2. Facilities may be named for any local, state, or national heroic figure.
3. Facilities may be named for an individual who is living or deceased.
4. Facilities may be named for local residential or geographical areas or state national landmarks.
5. Facilities may be named for a business or organization that has made significant contributions towards the construction or renovation of the facility.

A nominee shall have made a significant contribution to society and/or education and ~~his or her~~the name shall lend prestige and status to an institution of learning.

~~The~~An individual who is nominated ~~nominee~~ must represent exemplary human qualities that can serve as a model of excellence for the students who will attend the school.

Recommendation Process

The Board may request the Superintendent to solicit recommendations of names from staff, students, and the community when, in the opinion of the Board, this process is advisable. Recommendations shall be submitted to the Board through the Superintendent. The supporting data shall include a succinct description of the nominee's contributions, why these are important, and any pertinent history that should be considered.

Committee

Recommendations of names shall be submitted to a committee composed of the following representatives:

1. Two members of the Education Foundation, as selected by the members of the Education Foundation.
2. Two members appointed by the Board.
3. Three community representatives who reside within the District and have been selected by the District's Continuous Improvement Team.
4. Three parent representatives who reside within the District and have been selected by the District's Continuous Improvement Team.

NAMING FACILITIES

CW
(LOCAL)

The committee shall be chaired by the Superintendent or designee. The committee shall submit to the Board one or more recommended names for each campus or facility to be named.

Board Decision

The responsibility for the final decision in naming facilities rests with the Board. At a regularly scheduled meeting, the Board shall officially select a name from the list of recommendations submitted by the committee for each campus or facility to be named.

**Naming or Renaming
of Part of an Existing
Facility**

The naming or renaming of a part of an existing facility shall be in accordance with administrative guidelines.

NAMING FACILITIES

CW
(REGULATION)

**Naming or Renaming
Process for Part of
an Existing Facility**

The lead administrator at the facility is responsible for bringing forward any proposal to name or rename an existing part of the central office or a campus support facility.

The principal of a campus is responsible for bringing forward any proposal to name or rename a part of an existing facility on his or her campus.

A school campus that makes a recommendation to the Superintendent to name or rename a portion of its facility must have the consensus support of the principal, Chief of Schools, and the Campus Continuous Improvement Team (CCIT) prior to Superintendent approval. The recommendation shall include either minutes of the CCIT meeting or a resolution of support signed by the CCIT members.

When a portion of an existing facility is being considered for naming or renaming, the following process will be followed:

1. The Guidelines established in CW(LOCAL) will apply.
2. Parts of an existing facility include, but are not limited to, the following: wings, classrooms, gyms, band halls, libraries, auditoriums, and cafeterias (Facility Part).
3. All existing parts of facilities that have been named prior to January 1, 2026, not in compliance with this regulation shall retain their name regardless of the process used.
4. Nominations may be received at any time during the year.
5. Only one name may be submitted per nomination for consideration of a given part of an existing facility.
6. Nominators are encouraged to provide a succinct description of the landmark's, neighborhood's, or nominee's contributions, why they are important, and any pertinent history that should be considered. While no fixed standard is imposed, supporting documents should not exceed five pages.
7. In instances where there are multiple nominations or multiple letters of support, such nomination and letters of support should be summarized in the five pages referenced above.
8. With regard to naming or renaming a Facility Part at a school campus, once the CCIT has acted and approval has been granted by the Chief of Schools, the principal will send the nomination information to the Chief of Operations.
9. With regard to naming or renaming a Facility Part of the central office or a campus support facility, the lead administrator

at the facility will send the nomination information to the Chief of Operations.

10. The Chief of Operations will review the nomination to ensure compliance with this regulation. After confirming that the nomination complies with this regulation, the Chief of Operations will be responsible for bringing the nomination forward for the Superintendent's consideration.
11. If a nomination is approved by the Superintendent, the Chief of Operations will officially contact the principal or lead administrator at the facility and provide them with notice of the Superintendent's approval.
12. The facility making the nomination will be responsible for any ceremony, signage, and/or plaque reflecting the approval of a nomination.



Local Policy Revision

- Minor revisions are recommended to 1 local policy.
- Revisions were prepared in coordination with TASB Policy Service and ECISD legal counsel.
- Copies of CW (Local) with proposed revisions and CW (Regulation) were included in Board Book.

CW (LOCAL) NAMING FACILITIES

- ECISD administration created CW (Regulation), which addresses facility naming requests for parts of a facility.
- CW (Local) will continue to address naming of an entire school campus or district facility.
- Primary revision to CW (Local) acknowledges the existence and validity of CW (Regulation).

Naming or Renaming of Part of an Existing Facility

The naming or renaming of a part of an existing facility shall be in accordance with administrative guidelines.

- Secondary revision allows for “facilities to be named for a business or organization that has made significant contributions towards the construction or renovation of a facility.”
- If approved, the revisions will be implemented immediately.

QUESTIONS



PUBLIC HEARING ON THE 2025-2026 ECISD TARGETED IMPROVEMENT PLANS AND LOCAL IMPROVEMENT PLANS

A public hearing for the Targeted Improvement Plans (TIPs) and Local Improvement Plans (LIPs) for the 2025-2026 school year will be conducted in accordance with the Texas Administrative Code to approve the plans. Dr. Robert C. Trejo, Chief Academic Officer, will review the process and information related to the Targeted Improvement Plans and Local Improvement Plans that campuses have undertaken as presented in the board workshop.



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Dr. Robert C. Trejo, Chief Academic Officer

SUBJECT: **DISCUSSION OF AND REQUEST FOR APPROVAL OF THE 2025-2026 ECISD TARGETED IMPROVEMENT PLANS AND LOCAL IMPROVEMENT PLANS**

DATE: March 24, 2026

Request discussion and approval of the ECISD Targeted Improvement Plans (TIPs) and Local Improvement Plans (LIPs) which are designed to improve student outcomes by addressing academic needs, implementing interventions, and creating a supportive environment for student success. These plans are aligned with the Effective Schools Framework (ESF) components and will be submitted to the Texas Education Agency upon approval.

Administrative Recommendation:

Approval of the 2025-2026 ECISD Targeted Improvement Plans and Local Improvement Plans.



BOND 2023 UPDATE

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



ECISD

BOND 2023

MARCH 2026



Construction Projects

NEW VASQUEZ MIDDLE SCHOOL



NEW CTE CENTER



PERMIAN AUDITORIUM RENOVATIONS



NEW PERMIAN JROTC FACILITY



NEW TRANSITION LEARNING CENTER



NEW TRANSPORTATION CENTER



NEW AGRICULTURAL FARM



PRIORITY 1 & PRIORITY 2 RENOVATIONS



Delivery Method: CMAR

Delivery Method: CMAR

Delivery Method: CMAR

Delivery Method: CSP

Delivery Method: CSP

Delivery Method: CMAR

Delivery Method: CSP

Delivery Methods: JOC & CMAR

Teinert Construction
PBK Architects
Gallagher Consulting

Teinert Construction
PBK Architects
Gallagher Consulting

Teinert Construction
Parkhill Architects

MidTex Construction
Parkhill Architects

Henthorn Construction
DLR Architects
Gallagher Consulting

Parkhill Architects

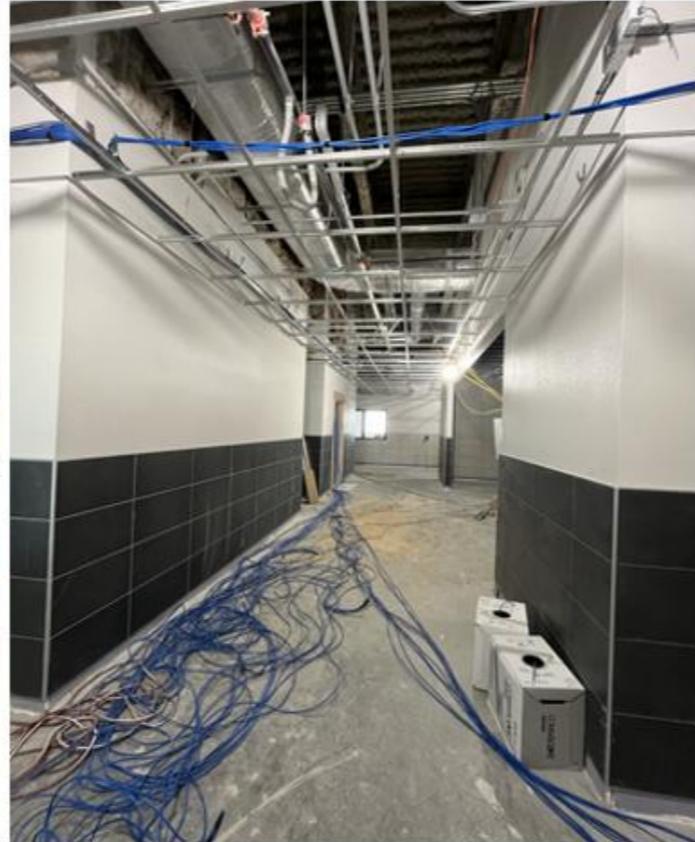
Henthorn Construction
Parkhill Architects

Various Contractors

Ector County ISD



Middle School



CONSTRUCTION UPDATE

Construction

- Site utilities is on-going
- Mech., Elec. and Plumbing is on-going
- Blockwork on-going around Fine Arts
- Interior finishes is on-going in education wing

COST SUMMARY

Budget:	\$120,794,898
Encumbrance:	\$45,209,821
Actual:	\$62,825,623
Available:	\$12,759,454
Percentage Complete:	52%



DIFFERENT FROM THE GROUND UP

Ector County ISD

Permian HS Auditorium Renovations



Construction Update

Site Summary

- HVAC ductwork in auditorium has been enclosed
- Drama room HVAC work ongoing
- Drywalling is ongoing on interior walls throughout project.
- Stage extension work is ongoing.
- Exterior concrete work is ongoing.
- Exterior MOJO lettering in process of being placed back on the building.

Cost Summary

Budget	\$12,500,000
Encumbrance	\$7,032,417
Actual	\$4,562,588
Available	\$904,995
Percentage Complete	37%

July 2024 – April 2025
Design



April – May 2025
Procurement



June 2025 – May 2026
Construction

ECISD Permian 3.12.26

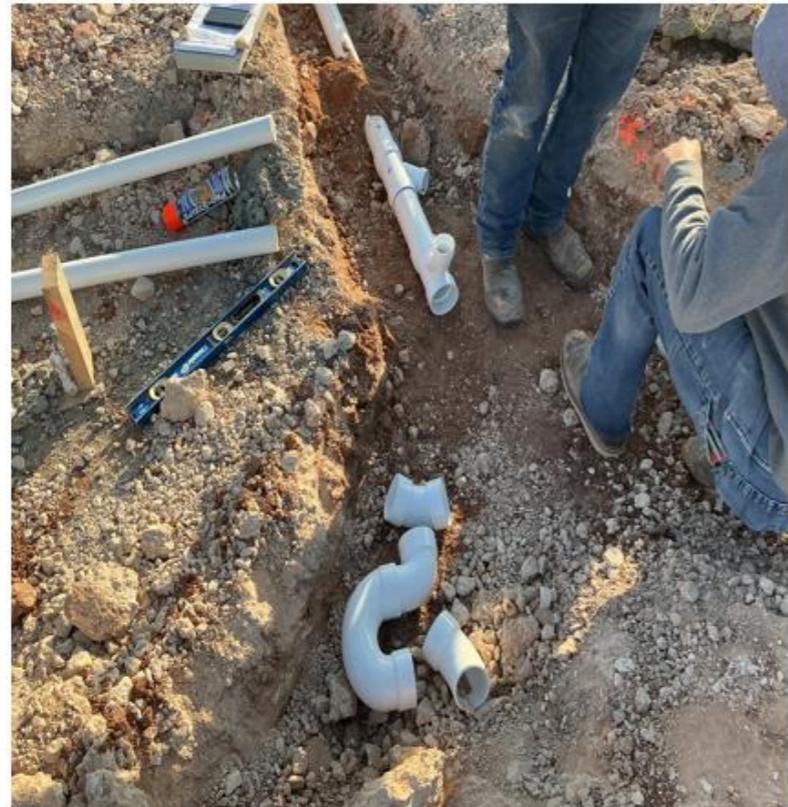


Ector County ISD



Transition Learning Center

DIFFERENT FROM THE GROUND UP



CONSTRUCTION UPDATE

Construction

- Concrete placement for grade beams
- Underground elec. & plumbing on-going

COST SUMMARY

Budget:	\$8,000,000
Encumbrance:	\$5,967,236
Actual:	\$926,924
Available:	\$1,105,840
Percentage Complete:	12%



Design
 Procurement
 Construction

Ector County ISD

Permian JROTC Facility



Construction Update

Site Summary

- Building frame is fully erected
- Insulation and HVAC work ongoing
- Underground Utilities work ongoing
- Overhead doors have been installed
- Slight delay due to industry-wide issues regarding metal framing has pushed completion to May 2026

Cost Summary

Budget	\$1,548,648
Encumbrance	\$926,950
Actual	\$621,698
Available	-
Percentage Complete	40%

August 2024 –
January 2025
Design

January – April
2025
Procurement

May 2025 – May
2026
Construction





Construction Update

Site Summary

- Retention pond excavation continues
- Concrete slab is being poured for the building containing the arena and both barns
- Gas lines have been capped as demolition continues.
- Utility work is ongoing.

Cost Summary

Budget	\$7,500,000
Encumbrance	\$6,134,119
Actual	\$938,549
Available	\$427,332
Percentage Complete	13%

July 2024 –
March 2025
Design



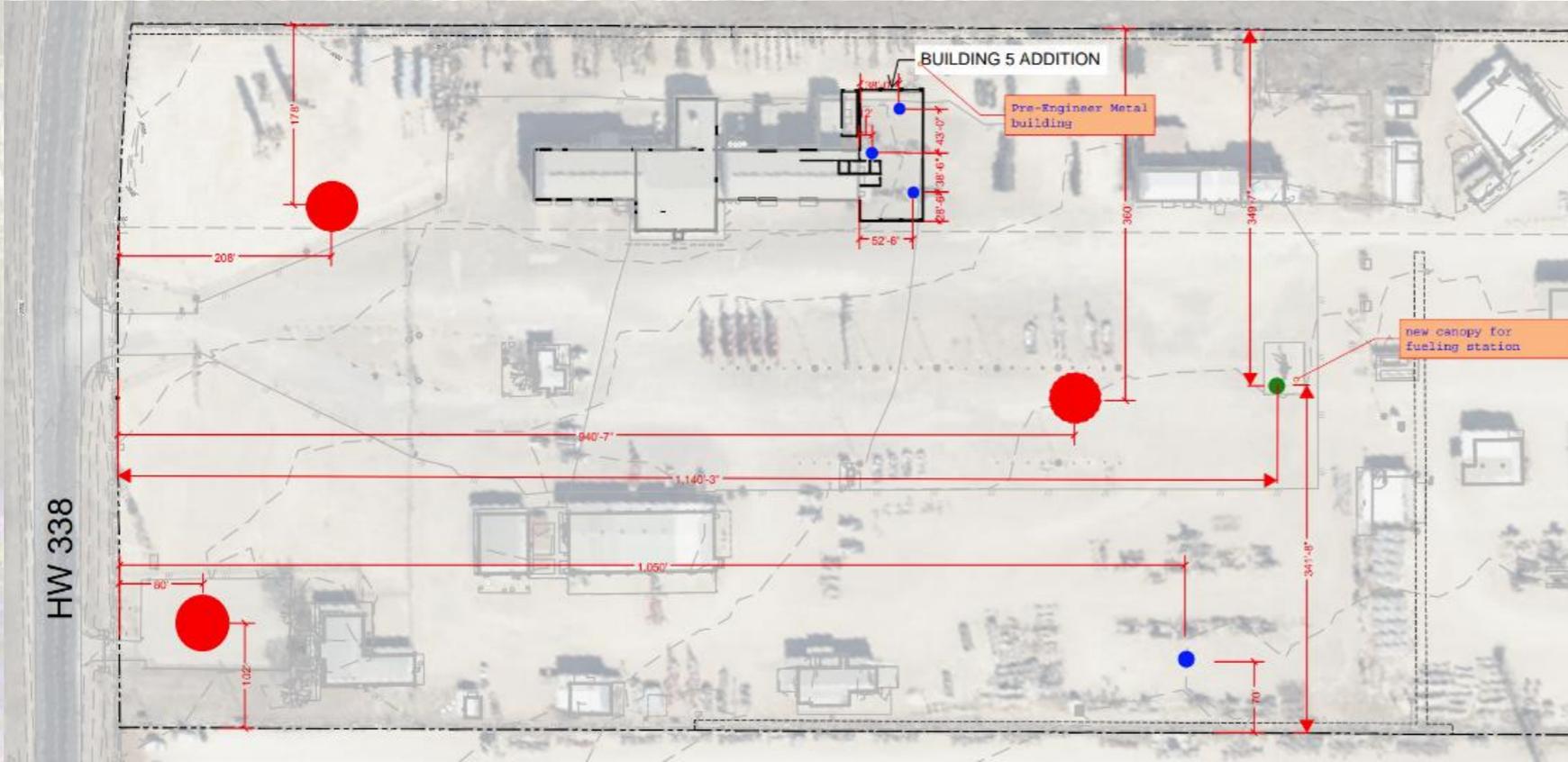
May - July 2025
Procurement



August 2025 –
June 2026
Construction



Geotechnical Survey



Site Summary

- Geotechnical Services began work on March 10th, 2026
- Private and domestic utility lines are scheduled to be mapped

COST SUMMARY

Budget	\$29,000,000
Encumbrance	\$1,241,583
Actual	\$5,555,705
Available	\$22,202,712
Percentage Complete	19%

April - October
2025
Design



November 2025–
January 2026
Procurement



March 2026
Construction

Ector County ISD

Priority 1 and 2 Projects - Roofing



Package 1- Construction
Burluson- **Substantially Complete**
Murry Fly- **Substantially Complete**
Travis- **Substantially Complete**
Zavala- **Substantially Complete**



Package 2- Design & Planning Stage
Noel
San Jacinto
Cameron
Crockett
Ector MS

Construction Update
Summary
<ul style="list-style-type: none">• Package 1- Awaiting warranty seals to be approved by manufacturer.• Package 2- Revised drawings received.• Currently in review with architects.

Ector County ISD

Priority 1 and 2 Projects – Travis Elementary School



Substantially Complete



- Certificate of Occupancy validated on February 19, 2026
- Priority 1 and 2 work at the campus is complete.

FINANCE



ECISD Bond 2023
Costs by Project
as of 3/1/2026



Notes	Project Name	Initial Project Budget	Moved Budget	Adjusted Budget	Actual Paid 2023/2024	Actual Paid 2024/2025	Actual Paid 2025/2026	Purchase Orders Encumbrance	Remaining Available	Percentage Utilized	
1	MIDDLE SCHOOL	120,000,000	794,898	120,794,898	2,490,112	24,154,364	31,953,405	49,091,376	13,105,641	49%	
2	PRIORITY 1&2 ITEMS	117,783,000	685,000	118,468,000	187,989	3,992,739	8,668,308	7,968,289	97,650,675	11%	
3	HS/CTE CENTER	80,000,000	13,760,117	93,760,117	398,966	4,277,344	7,991,216	81,092,591	-	14%	
4	TRANSPORTATION FACILITY	35,000,000	(6,000,000)	29,000,000	47,250	5,320,537	187,918	1,241,583	22,202,712	19%	
5	AUDITORIUM RENO-PHS	12,500,000		12,500,000		612,239	3,950,349	7,032,417	904,995	37%	
6	TECHNOLOGY-PA, BELL, CLOCK, FA SYS	10,000,000		10,000,000		4,615,643	913,663	2,627,192	1,843,502	55%	
7	LAND PURCHASE	9,000,000	(8,603,663)	396,337	16,988	75,730		-	303,620	23%	
8	TRANSITION LEARNING CENTER	8,000,000		8,000,000		286,175	640,749	5,967,236	1,105,840	12%	
9	AG FARM BUILDINGS-CTE	7,500,000		7,500,000		311,002	627,547	6,134,119	427,332	13%	
10	TECHNOLOGY ITEMS-SURVEILLANCE	6,000,000		6,000,000		4,656,069	502,374	431,891	409,666	86%	
11	FINE ARTS INSTRUMENTS	3,665,000		3,665,000	299,663	1,603,320	866,980	44,490	850,547	76%	
12	TECH ITEMS-FLT PNL BDS,AV EQP	3,500,000		3,500,000	3,422,512	76,872		-	616	100%	complete
13	TECHNOLOGY - PHONE SYS	2,500,000		2,500,000		-		1,067,957	1,432,043	0%	
14	TRANSPORTATION BUSES	2,450,000		2,450,000		-	2,157,458	254,839	37,703	88%	
15	JROTC FACILITY	1,500,000	48,648	1,548,648		165,282	456,416	926,950	-	40%	
16	TECHNOLOGY ITEMS - AV EQUIP	1,500,000		1,500,000		984,162		195,871	319,967	66%	
17	ATH-MS GYM BLEACHERS	1,000,000		1,000,000		845,158		-	154,842	85%	complete
18	MS UNIF-BAND&MARIACHI	685,000	(685,000)	-		-		-	-	0%	
19	ATH-BB & TENNIS LIGHTS-OHS	650,000	(14,200)	635,800		611,691		-	24,109	96%	complete
20	ATH-MS TENNIS COURT RESURFACE	480,000		480,000	216,826	121,812		-	141,362	71%	complete
21	ATH-BASEBALL LIGHTING-PHS	400,000	14,200	414,200		413,200		-	1,000	100%	complete
22	MS PERFORMANCE RISERS	150,000		150,000		82,018	62,590	-	5,392	96%	
Totals		\$ 424,263,000	\$ -	\$ 424,263,000	\$ 7,080,306	\$ 53,205,356	\$ 58,978,973	\$ 164,076,801	\$ 140,921,565		
Percent		100%	0%	0%	2%	13%	14%	39%	33%		

Notes:

- 1 Moved MS land costs and matching budget from land project to MS project totaling \$794,898.
- 2 Moved budget from MS Uniforms to Priority 1 & 2 of \$685,000.
- 3 Unused funds of \$10m from the Transportation Facility and unused funds of \$3,760,117 from land purchase were reallocated to the CTE High School.
- 3 CTE High School donation from PSP of an additional \$10 million is accounted for separately in Fund 468 so that it is not commingled with bond funds.
- 4 Moved budget of \$10m to CTE High School. Moved budget from land of \$4m for Transportation facility.
- 7 Unused funds from land purchased were reallocated as follows: MS \$794,898; CTE HS \$3,760,117, \$48,648 for JROTC facility, and \$4m for Transportation facility.
- 15 Moved from land project to ROTC facility to cover slight increase in cost of \$48,648.
- 18 Moved budget to Priority 1 & 2 of \$685,000. Uniforms will be purchased with general funds.
- 19 Moved budget of \$14,200 from one light project to the other.
- 21 Moved budget of \$14,200 from one light project to the other.

THANK YOU





BOND OVERSIGHT COMMITTEE ANNUAL REPORT

The Superintendent and the Board of Trustees will hear an annual report from the Bond 2023 Oversight Committee. An evaluative report will be presented by committee member, Sara Moore.



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Anthony Sorola, Associate Superintendent

SUBJECT: **DISCUSSION OF AND REQUEST FOR APPROVAL OF THE NAMING OF THE NEW CAREER AND TECHNICAL EDUCATION FACILITY**

DATE: March 24, 2026

The Superintendent and Board of Trustees will hear a report and naming recommendation from the New Career and Technical Education Facility Naming Committee. This presentation will be delivered by Committee members, Myrna Diaz and Sierra Searcy.

Committee Members:

1. Sierra Searcy
2. Myrna Diaz
3. Sirisha Neerukonda
4. Brianna Baeza
5. Janice Turner
6. Louis Gonzales
7. John Landgraf
8. Kevin Searcy
9. Renee Henderson
10. Staci Ashley

Administrative Recommendation:

Approval of the Naming of the New Career and Technical Education Facility.

NAMING FACILITIES

CW
(LOCAL)

Guidelines

The following guidelines shall be used in the naming of school buildings or other facilities in the District:

1. Facilities may be named for persons who served the District or community, especially in service to children.
2. Facilities may be named for any local, state, or national heroic figure.
3. Facilities may be named for an individual who is living or deceased.
4. Facilities may be named for local residential or geographical areas or state national landmarks.
5. A nominee shall have made a significant contribution to society and/or education and his or her name shall lend prestige and status to an institution of learning.
6. The nominee must represent exemplary human qualities that can serve as a model of excellence for the students who will attend the school.

Recommendation Process

The Board may request the Superintendent to solicit recommendations of names from staff, students, and the community when, in the opinion of the Board, this process is advisable. Recommendations shall be submitted to the Board through the Superintendent. The supporting data shall include a succinct description of the nominee's contributions, why these are important, and any pertinent history that should be considered.

Committee

Recommendations of names shall be submitted to a committee composed of the following representatives:

1. Two members of the Education Foundation, as selected by the members of the Education Foundation.
2. Two members appointed by the Board.
3. Three community representatives who reside within the District and have been selected by the District's Continuous Improvement Team.
4. Three parent representatives who reside within the District and have been selected by the District's Continuous Improvement Team.

The committee shall be chaired by the Superintendent or designee. The committee shall submit to the Board one or more recommended names for each campus or facility to be named.

NAMING FACILITIES

CW
(LOCAL)

Board Decision

The responsibility for the final decision in naming facilities rests with the Board. At a regularly scheduled meeting, the Board shall officially select a name from the list of recommendations submitted by the committee for each campus or facility to be named.



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Albessa Chavez, Chief Financial Officer

SUBJECT: DISCUSSION OF AND REQUEST FOR APPROVAL OF BOND 2023 PURCHASES OVER \$100,000

DATE: March 24, 2026

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

Administrative Recommendation:
Approval of Bond 2023 Purchases over \$100,000

ECISD
 Request for Bond Purchases Over \$100,000
 March 2026

Item	Vendor(s)	Estimated Contract Price		Funding	Requestor/ Department	Reference	Service/ Product	Service/Product Summary	Contract Term
1B	Amstar, Inc.	Previously Approved Increase Required New Total Amount	\$4,344,128.45 \$1,500,000.00 \$5,844,128.45	Bond Funds 693	Exalander Magallan District Operations	ECISD AWARDED RFP 24-31 ADDENDUM 1	Job Order Contracting General Construction Services	Job Packages for 25-26 at Wilson & Young Middle School. Amstar, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks: Fire & Life Safety ADA Compliance Electrical Distribution/Gear Waterproofing/sealant HVAC Mechanical Plumbing - Domestic Water Plumbing - Sanitary Sewer	2025-2028
2B	Lee Construction and Maintenance Company, Inc.	Previously Approved Increase Required New Total Amount	\$2,420,346.29 \$1,000,000.00 \$3,420,346.29	Bond Funds 693	Exalander Magallan District Operations	ECISD AWARDED RFP 24-31 ADDENDUM 1	Job Order Contracting General Construction Services	Job Packages for 25-26 at Nimitz Middle School. Lee Construction and Maintenance Company, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks: Fire & Life Safety ADA Compliance Electrical Distribution/Gear Waterproofing/sealant HVAC Mechanical Plumbing - Domestic Water Plumbing - Sanitary Sewer	2025-2028
3B	Henthorn Commercial Construction	Previously Approved Increase Required New Total Amount	\$2,056,574.97 \$1,000,000.00 \$3,056,574.97	Bond Funds 693	Exalander Magallan District Operations	ECISD AWARDED RFP 24-31 ADDENDUM 1	Job Order Contracting General Construction Services	Job Packages for 25-26 at Bonham Middle School. Henthorn Commercial Construction is the general contractor that will be completing the following priority 1 and 2 renovation tasks: Fire & Life Safety ADA Compliance Electrical Distribution/Gear Waterproofing/sealant HVAC Mechanical Plumbing- Sanitary Sewer Plumbing- Domestic Water	2025-2028

ECISD
Request for Bond Purchases Over \$100,000
March 2026

Item	Vendor(s)	Estimated Contract Price		Funding	Requestor/ Department	Reference	Service/ Product	Service/Product Summary	Contract Term
4B	Teinert Construction	Previously Approved Increase Required New Total Amount	\$2,000,000 \$1,000,000 \$3,000,000	Bond Funds 693	Exalander Magallan District Operations	BUYBOARD 783-25	Job Order Contracting General Construction Services	Job Packages for 25-26 at Permian High School. Teinert Construction is the general contractor that will be completing the following priority 1 and 2 renovation tasks: Fire & Life Safety ADA Compliance Electrical Distribution/Gear Waterproofing/sealant HVAC Mechanical Plumbing - Fixtures Plumbing - Domestic Water Plumbing - Sanitary Sewer	2025-2028
5B	Lopez and Son's, Inc.	Previously Approved Increase Required New Total Amount	\$1,794,141.45 \$1,000,000.00 \$2,794,141.45	Bond Funds 693	Exalander Magallan District Operations	ECISD AWARDED RFP 24-31 ADDENDUM 1	Job Order Contracting General Construction Services	Job Packages for 25-26 at Goliad Elementary. Lopez and Son's, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks: Fire & Life Safety ADA Compliance Electrical Distribution/Gear Waterproofing/sealant HVAC Mechanical Plumbing- Sanitary Sewer Plumbing- Domestic Water	2025-2028
6B	WR Construction, Inc.	Previously Approved Increase Required New Total Amount	\$1,400,398.70 \$1,000,000.00 \$2,400,398.70	Bond Funds 693	Exalander Magallan District Operations	ECISD AWARDED RFP 24-31 ADDENDUM 1	Job Order Contracting General Construction Services	Job Packages for 25-26 at New Tech Odessa. WR Construction is the general contractor that will be completing the following priority 1 and 2 renovation tasks: Fire & Life Safety ADA Compliance Electrical Distribution/Gear Waterproofing/sealant HVAC Mechanical	2025-2028

ECISD

Request for Bond Purchases Over \$100,000

March 2026

Item	Vendor(s)	Estimated Contract Price		Funding	Requestor/ Department	Reference	Service/ Product	Service/Product Summary	Contract Term
7B	Amstar, Inc.	\$	2,000,000	Bond Funds 693	Exalander Magallan District Operations	ECISD AWARDED RFP 24-31 ADDENDUM 1	Job Order Contracting General Construction Services	Job Packages for 25-26 at Hays Elementary. Amstar, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks: Fire & Life Safety ADA Compliance Electrical Distribution/Gear Waterproofing/sealant HVAC Mechanical Plumbing- Sanitary Sewer Plumbing- Domestic Water	2025-2028
8B	Amstar, Inc.	Previously Approved Increase Required New Total Amount	\$1,683,486.73 \$ 225,497.23 \$1,908,983.96	Bond Funds 693	Exalander Magallan District Operations	ECISD AWARDED RFP 24-31 ADDENDUM 1	Job Order Contracting General Construction Services	Job Packages for 25-26 at Sam Houston Elementary. Amstar, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks: Waterproofing Electrical Distribution ADA Compliance HVAC- Mechanical Plumbing - Domestic Water Plumbing - Sanitary Sewer	2025-2028
9B	Teinert Construction	Previously Approved Increase Required New Total Amount	\$ 529,612.95 \$1,140,387.05 \$1,670,000.00	Bond Funds 693	Exalander Magallan District Operations	BUYBOARD 783-25	Job Order Contracting General Construction Services	Job Packages for 25-26 at Gonzales Elementary. Teinert Construction is the general contractor that will be completing the following priority 1 and 2 renovation tasks: Fire & Life Safety Electrical Distribution HVAC- Mechanical Plumbing - Domestic Water Plumbing - Sanitary Sewer ADA Compliance Waterproofing Sealant	2025-2028
10B	Lee Construction and Maintenance Company, Inc.	Previously Approved Increase Required New Total Amount	\$ 952,893.45 \$ 602,794.36 \$1,555,687.81	Bond Funds 693	Exalander Magallan District Operations	ECISD AWARDED RFP 24-31 ADDENDUM 1	Job Order Contracting General Construction Services	Job Packages for 25-26 at Cameron Elementary. Lee Construction and Maintenance Company, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks: Wall Repair - Exterior Waterproofing ADA Compliance Plumbing - Domestic Water Plumbing - Sanitary Sewer	2025-2028 38

ECISD
Request for Bond Purchases Over \$100,000
March 2026

Item	Vendor(s)	Estimated Contract Price		Funding	Requestor/ Department	Reference	Service/ Product	Service/Product Summary	Contract Term
11B	Lopez and Son's, Inc.	Previously Approved	\$ 741,750	Bond Funds 693	Exalander Magallan District Operations	ECISD AWARDED RFP 24-31 ADDENDUM 1	Job Order Contracting General Construction Services	Job Packages for 25-26 at Alternative Education Center, Crockett Middle School, and Food Service. Lopez and Son's is the general contractor that will be completing the following priority 1 and 2 renovation tasks: HVAC- Mechanical Electrical Distribution/Electrical Gear ADA Compliance Waterproofing Plumbing- Sanitary Sewer Plumbing- Domestic	2025-2028
	Increase Required	\$ 789,410							
	New Total Amount	\$1,531,160							
12B	Amstar, Inc.		\$ 888,000	Bond Funds 693	Exalander Magallan District Operations	ECISD AWARDED RFP 24-31 ADDENDUM 1	Job Order Contracting General Construction Services	Amstar, Inc. is the general contractor that will be completing the HVAC renovation tasks at Travis Elementary School.	2025-2028
13B	Henthorn Commercial Construction	Previously Approved	\$ 81,112.95	Bond Funds 693	Exalander Magallan District Operations	ECISD AWARDED RFP 24-31 ADDENDUM 1	Job Order Contracting General Construction Services	Job Packages for 25-26 at Austin Elementary. Henthorn Commercial Construction is the general contractor that will be completing the following priority 1 and 2 renovation tasks: Waterproofing Sealant Fire & Life Safety Plumbing - Domestic Water	2025-2028
	Increase Required	\$106,924.74							
	New Total Amount	\$188,037.69							

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountyisd.org



RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Wilson & Young Middle School

- **Purpose:** Amstar, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Wilson & Young Middle School:
 - Fire & Life Safety
 - ADA Compliance
 - Electrical Distribution/Gear
 - Waterproofing/sealant
 - HVAC Mechanical
 - Plumbing - Domestic Water
 - Plumbing - Sanitary Sewer

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:**

Previously Approved	\$4,344,128.45
Increase Required	\$1,500,000.00
New Total Amount	\$5,844,128.45

- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Amstar, Inc.

Board Approval

Date

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountyisd.org



RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Nimitz Middle School

- **Purpose:** Lee Construction and Maintenance Company, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Nimitz Middle School:
 - Fire & Life Safety
 - ADA Compliance
 - Electrical Distribution/Gear
 - Waterproofing/sealant
 - HVAC Mechanical
 - Plumbing - Domestic Water
 - Plumbing - Sanitary Sewer
- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.
- **Cost:**

Previously Approved	\$2,420,346.29
Increase Required	<u>\$1,000,000.00</u>
New Total Amount	\$3,420,346.29
- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Lee Construction and Maintenance Company, Inc.

Board Approval

Date

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountyisd.org



RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Bonham Middle School

- **Purpose:** Henthorn Commercial Construction is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Bonham Middle School:
 - Fire & Life Safety
 - ADA Compliance
 - Electrical Distribution/Gear
 - Waterproofing/sealant
 - HVAC Mechanical
 - Plumbing- Sanitary Sewer
 - Plumbing- Domestic Water

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:**

Previously Approved	\$2,056,574.97
Increase Required	<u>\$1,000,000.00</u>
New Total Amount	\$3,056,574.97

- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Henthorn Commercial Construction

Board Approval

Date

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountyisd.org



BuyBoard Contract #783-25 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Permian High School

- **Purpose:** Teinert Construction is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Permian High School:
 - Fire & Life Safety
 - ADA Compliance
 - Electrical Distribution/Gear
 - Waterproofing/sealant
 - HVAC Mechanical
 - Plumbing - Fixtures
 - Plumbing - Domestic Water
 - Plumbing – Sanitary Sewer
- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.
- **Cost:** Previously Approved \$2,000,000
 Increase Required \$1,000,000
 New Total Amount \$3,000,000
- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Teinert Construction

Board Approval

Date

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountyisd.org



RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Goliad Elementary School

- **Purpose:** Lopez and Son’s, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Goliad Elementary School:
 - Fire & Life Safety
 - ADA Compliance
 - Electrical Distribution/Gear
 - Waterproofing/sealant
 - HVAC Mechanical
 - Plumbing- Sanitary Sewer
 - Plumbing- Domestic Water

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:**

Previously Approved	\$1,794,141.45
Increase Required	<u>\$1,000,000.00</u>
New Total Amount	\$2,794,141.45

- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Lopez and Son’s, Inc.

Board Approval

Date

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountyisd.org



RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – New Tech Odessa

- **Purpose:** WR Construction, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks at New Tech Odessa:
 - Fire & Life Safety
 - ADA Compliance
 - Electrical Distribution/Gear
 - Waterproofing/sealant
 - HVAC Mechanical
- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.
- **Cost:**

Previously Approved	\$1,400,398.70
Increase Required	\$1,000,000.00
New Total Amount	\$2,400,398.70
- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - WR Construction, Inc.

Board Approval

Date

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountysd.org



RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Hays Elementary School

- **Purpose:** Amstar, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Hays Elementary School:
 - Fire & Life Safety
 - ADA Compliance
 - Electrical Distribution/Gear
 - Waterproofing/sealant
 - HVAC Mechanical
 - Plumbing- Sanitary Sewer
 - Plumbing- Domestic Water

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:** \$2,000,000
- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Amstar, Inc.

Board Approval

Date

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountyisd.org



RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 at Sam Houston Elementary.

- **Purpose:** Amstar, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks:
 - Waterproofing
 - Electrical Distribution
 - ADA Compliance
 - HVAC- Mechanical
 - Plumbing - Domestic Water
 - Plumbing - Sanitary Sewer
- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.
- **Cost:**

Previously Approved	\$1,683,486.73
Increase Required	<u>\$ 225,497.23</u>
Total Cost	\$1,908,983.96
- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Amstar, Inc.

Board Approval

Date

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountyisd.org



BuyBoard Contract #783-25 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Gonzales Elementary School

- **Purpose:** Teinert Construction is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Gonzales Elementary School:
 - Fire & Life Safety
 - ADA Compliance
 - Electrical Distribution/Gear
 - Waterproofing/sealant
 - HVAC Mechanical
 - Plumbing- Sanitary Sewer
 - Plumbing- Domestic Water
- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.
- **Cost:**

Previously Approved	\$ 529,612.95
Increase Required	<u>\$1,140,387.05</u>
New Total Amount	\$1,670,000.00
- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Teinert Construction

Board Approval

Date

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountyisd.org



RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 at Cameron Elementary.

- **Purpose:** Lee Construction and Maintenance Company, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks:
 - Wall Repair - Exterior
 - Waterproofing
 - ADA Compliance
 - Plumbing - Domestic Water
 - Plumbing - Sanitary Sewer

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:**

Previously Approved	\$ 952,893.45
Increase Required	<u>\$ 602,794.36</u>
Total Cost:	\$1,555,687.81

- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Lee Construction and Maintenance Company, Inc.

Board Approval

Date

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountyisd.org



RFP #24-31 – Increase PO - Job Order Contracting Services for General Construction – Job Packages for 25-26:

- Alternative Education Center (AEC)
- Crockett Middle School
- Food Service
- **Purpose:** Accurate pricing with built-in contingency has been obtained since we prepared our JOC projects, so we are needing an increase of \$789,410 to successfully complete the scopes of work defined for AEC, Crockett, and Food Services. Lopez & Sons is the general contractor that will be completing the following priority 1 and 2 renovation tasks at schools listed above:
 - HVAC- Mechanical
 - Electrical Distribution/Electrical Gear
 - ADA Compliance
 - Waterproofing
 - Plumbing- Sanitary Sewer
 - Plumbing- Domestic
- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.
- **Costs:**

Previously Approved	\$ 741,750
Increase Required	<u>\$ 789,410</u>
New Total Amount	\$ 1,531,160
- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Lopez & Sons, Inc.

Board Approval

Date

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountysd.org



RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Travis Elementary School

- **Purpose:** Amstar, Inc. is the general contractor that will be completing the HVAC renovation tasks at Travis Elementary School.
- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.
- **Cost:** \$ 888,000
- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Amstar, Inc.

Board Approval

Date

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountyisd.org



RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Austin Elementary- Summer 2025

- **Purpose:** Henthorn Commercial Construction is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Austin Elementary School:
 - Waterproofing Sealant
 - Fire & Life Safety
 - Plumbing - Domestic Water
- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.
- **Cost:**

Previously Approved	\$ 81,112.95
Increase Required	<u>\$106,924.74</u>
Total Cost	\$188,037.69
- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Henthorn Commercial Construction

Board Approval

Date



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Anthony Sorola, Associate Superintendent of Operations

SUBJECT: **DISCUSSION OF AND REQUEST FOR APPROVAL OF CONSTRUCTION MANAGER AT RISK CONTRACT BETWEEN ECISD AND TEINERT CONSTRUCTION FOR TRANSPORTATION FACILITY RENOVATION**

DATE: March 24, 2026

It is the recommendation of the administration that the Board of Trustees approve the Construction Manager at Risk Contract between ECISD and Teinert Construction for Transportation Facility Renovation.

Administrative Recommendation:

The administration requests that the Board approve the Construction Manager at Risk contract between ECISD and Teinert Construction for Transportation Facility Renovation.

AIA[®] Document A133[®] – 2019

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

AGREEMENT made as of the 24th day of March in the year 2026
(In words, indicate day, month, and year.)

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

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

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

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

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

2023 Bond Program New Construction
ECISD Transportation Facility

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

Parkhill
1700 W Wall St, Ste 100
Midland, TX 79701

ADDITIONS AND DELETIONS:

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

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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

WHEREAS Owner and Construction Manager have agreed to enter into AIA Document A133™-2019 Contract ("Contract") as the basic form for that contract; and

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

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TABLE OF ARTICLES

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

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

EXHIBIT B INSURANCE AND BONDS

ARTICLE 1 INITIAL INFORMATION

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

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

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

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which55 the program will be developed.)

The proposed Transportation Facility is located on a 35-acre site outside of city jurisdiction and includes multiple existing pre-engineered metal buildings (PEMBs). The project will focus on approximately 19.4 acres on the western portion of the site.

As part of the project scope, Buildings 1, 4, and 9 will be demolished to provide better access and vehicular circulation to the site and due to inadequacy and deficiencies of existing conditions. Building 5 will be renovated and expanded to serve as the primary facility for ECISD Transportation operations. The scope of work for Building 5 includes the following:

Offices and Drivers' Lounge: Renovation of approximately 8,500 square feet to accommodate offices, conference rooms, restrooms, a drivers' lounge, and multi-use spaces.

Init.

Parts Area and Maintenance: Approximately 7,000 square feet of existing space to be utilized for vehicle and bus maintenance, parts storage, and related office functions.

Bus Maintenance Expansion: An 8,100-square-foot pre-engineered metal building addition to support expanded bus maintenance operations, including all associated utilities. A new 50,000-gallon water storage tank with pump will be provided to support the required fire suppression system for Building 5. Upgrades to existing electrical and mechanical systems, along with new equipment necessary to serve the building addition, are included in the project scope.

The 28,600 SF renovated and expanded facility is intended to consolidate key transportation functions into a single building, including transportation administration, mechanic and maintenance operations, and a dedicated bus driver lounge. The project also includes new transportation maintenance bays to support ECISD's growing fleet and service needs.

§ 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.)

Ector County ISD Transportation Facility
8860 and 8866 NW Loop 338, Odessa, Texas 79764

§ 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.)

ECISD Transportation Facility
\$18,050,000.00

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

.1 Design phase milestone dates, if any:

ECISD Transportation Facility Design Phase: 3/25/26 – 7/15/26

.2 Construction commencement date:

ECISD Transportation Facility Construction Commencement: 8/15/26

.3 Substantial Completion date or dates:

ECISD Transportation Facility Substantial Completion: 10/15/27

.4 Other milestone dates:

N/A

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

To be determined at a later date.

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

N/A

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

(Paragraphs deleted)

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

Dr. Keeley Boyer, Superintendent of Schools
Ector County ISD
802 North Sam Houston
Odessa, TX 79761
Tel.: 432.456.9878

Jerry Mahana, Purchasing Director
Ector County ISD
802 North Sam Houston
Odessa, TX 79761
Tel.: 432.456.9878

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

Parkhill

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

.1 Geotechnical Engineer:

To be determined at a later date.

.2 Civil Engineer:

To be provided by Architect

.3 Other, if any:

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

N/A

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

Mr. Layne Scott
1700 W Wall St, Ste 100
Midland, TX 79701
469-287-3008
lscott@parkhill.com

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

Mr. Chad Henthorn, CEO
Teinert Construction
1402 Crickets Ave.
Lubbock, TX 79401
806.744.2801
chad@teinert.com

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

Cameron Cohen, Sr. Estimator,
Daniel Horton Pre-Construction Director.
Zach Allen, Executive Project Manager

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

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

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

N/A

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information. 58

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

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, as amended, Conditions of the Contract (General, Supplementary and other Conditions), as amended, Drawings, Specifications, Addenda issued prior to execution of this Agreement, all sections of the Project Manual, other documents listed in this Agreement, Modifications issued after execution of this Agreement, the proposal signed by the Construction Manager, the request for proposals, and Construction Manager's proof of payment and performance bonds, and proof of insurance, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein.

§ 2.1.1 Any revision, amendment, or modification to the Standard Form of this Agreement shall be valid, binding, and enforceable only if said revision, amendment or modification is made conspicuous by being underlined, lined-through, or

highlighted in this Agreement signed by Construction Manager and the authorized representative of Owner's Board of Trustees. In the event of conflict, terms and conditions contained in the Agreement, as amended, shall take precedence over terms and conditions contained in the General Conditions, as amended, and the terms and conditions in the General Conditions, as amended, shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein.

§ 2.1.2 The Board of Trustees, by majority vote, is the only representative of the Owner, an independent school district, having the power to enter into or amend a contract, to approve changes in the scope of the Work, to approve and execute a Change Order or Construction Change Directive modifying the Guaranteed Maximum Price, to agree to an extension to the date of Substantial or Final Completion or to terminate a contract. The Board delegates to the Superintendent or Superintendent's designee, the authority to approve and execute legally authorized Change Orders in accordance with Board policy. The Owner designates the following as the individual authorized to sign documents on behalf of the Board of Trustees: Superintendent or Superintendent's designee.

§ 2.2 Relationship of the Parties

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

§ 2.3 General Conditions

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

(Paragraph deleted)

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

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

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

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

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services including preparation of schedules and estimates. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The

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

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other. In cooperation with the Architect's initial conceptual design, the Construction Manager shall prepare a detailed written report to the Owner setting out an initial cost estimate based on the Owner's Design Standards and Educational Specifications, using industry research, estimated quantities and labor costs, and shall participate in a meeting with the Owner's team and the Architect to review and discuss the conceptual design and initial cost estimate.

§ 3.1.3 Consultation

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

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

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing written protocols for the development, use, transmission, reliance, and exchange of digital data, including building information models for the Project.

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

§ 3.1.3.5 Notwithstanding any provision of the General Conditions of the Contract for Construction to the contrary, the Construction Manager shall not be entitled to additional compensation for any delay or disruption to the Work arising from any conflict between the mechanical, electrical, and plumbing systems with each other, or with the structural or architectural components of the Work, or with existing systems, if such conflicts should have been discovered during the⁶⁰ Construction Documents Phase by the Construction Manager through the exercise of reasonable diligence, and the Owner and Architect were not informed of such conflicts as required by subparagraph 3.1.3.4. This provision shall apply only with respect to conflicts appearing in the Drawings and Specifications provided for the Construction Manager's review prior to proposal of a Guaranteed Maximum Price.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; dates of Substantial Completion and Final Completion; and the occupancy requirements of the Owner. If updated Project schedules indicate

that previously-approved schedules may not be met, then the Construction Manager shall make appropriate recommendations to the Owner and Architect and, upon written approval of both, shall implement necessary corrective action.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues. The Construction Manager shall make recommendations to the Owner and Architect regarding the phased issuance of Drawings and Specifications so as to facilitate the proposal of a Guaranteed Maximum Price when all elements of the Drawings and Specifications are at least ninety percent complete, unless mutually agreed otherwise by the Architect, Owner and the Construction Manager.

§ 3.1.6 Cost Estimates

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

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

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

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

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding⁶¹ equipment, materials, services, and temporary Project facilities.

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

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234TM-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

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

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

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

§ 3.1.12 Procurement

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

§ 3.1.13 Compliance with Laws

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

§ 3.1.14 Other Preconstruction Services

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

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

Construction Manager will conduct a prevailing wage rate survey in accordance with Texas Government Code sec. 2258.022(a) for setting per diem wages for workers to be employed on this project.

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1

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

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom.

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

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; general conditions and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; .5 The date of Final Completion upon which the proposed Guaranteed Maximum Price is based, which date shall not be more than thirty (30) days after the date of Substantial Completion; and
- .6 The Guaranteed Maximum Price proposal may not be based in any part on any subcontract or material supply contract which would require the Owner to compensate the Construction Manager on other than a maximum price basis.

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

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

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

Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

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

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

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

§ 3.3 Construction Phase

§ 3.3.1 General

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

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

§ 3.3.2 Administration

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

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

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

- .1 The successful proposer's responsibility to provide workers' compensation insurance in accordance with Texas Labor Code Chapter 406;
- .2 The successful proposer's responsibility to pay prevailing wages pursuant to Texas Government Code Chapter 2258;

- .3 A notice of the sales tax exemption for the Work and the procedure for obtaining any required exemption verification or certificate;
- .4 The notice regarding trench and shoring safety required by Texas Health and Safety Code Section 756.023.

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

3.3.2.1.3. The Construction Manager shall schedule and conduct weekly or otherwise regularly-scheduled meetings at which Owner, Architect, Construction Manager, and appropriate Subcontractors meetings discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect. The Construction Manager shall provide periodic presentations updating the progress, quality and status of the Work to Owner's Board of Trustees, at Owner's request, at no additional cost to Owner.

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

§ 3.3.2.3 Monthly Report

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

§ 3.3.2.4 Daily Logs

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

§ 3.3.2.5 Cost Control

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

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

- .1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work. 65
- .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 shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including

schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 (Paragraph Intentionally Deleted.)

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

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

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

§ 4.1.4.2 The Owner shall furnish surveys as provided in Section 2.3.4 of AIA A201-2017.

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

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

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

§ 4.2 Owner's Designated Representative

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

§ 4.2.1 Legal Requirements.

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

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

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

§ 4.3 Architect (Paragraph Intentionally 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.)

Five Thousand Dollars. (\$5,000.00)

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

N/A

§ 5.1.2.1 (Paragraph Intentionally Deleted)

§ 5.1.3 (Paragraph Intentionally Deleted)Not used.

§ 5.2 Payments

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

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the maximum rate permitted by law, in accordance with Texas Government Code Chapter 2251.

(Paragraph deleted)

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

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

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§ 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.)

Ector County ISD Transportation Facility: 3% of the cost of the work

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

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

Fee shall be adjusted at three percent (3%) for the sum changes in the work or any scope increases that cause the project to go over the budget listed herein.

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

executed Change Order(s) identifying the same, shall not exceed the amounts in Article 7 of the A201 General Conditions, as modified by the Owner.

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

§ 6.1.6

(Paragraphs deleted)

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

(Paragraphs deleted)

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

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

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

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

§ 6.1.11 Liquidated Damages, if any:

.1 Time is of the essence in all phases of the Work. It is specifically understood and agreed by and between Owner and Construction Manager that time is of the essence in the Substantial Completion and Final Completion of the Project and Owner shall sustain actual and direct damages as a result of Construction Manager's failure, neglect or refusal to achieve said deadlines. Such actual and direct damages are, and will continue to be, 68 impracticable and extremely difficult to determine. Execution of this Agreement under these specifications shall constitute agreement by Owner and Construction Manager that the amounts stated below are the minimum value of the costs and actual and direct damages caused by failure of Construction Manager to substantially complete the work within the allotted times, that such sums are liquidated direct damages and shall not be construed as a penalty, and that such sums may be deducted from payments due Construction Manager if such delay occurs. It is expressly understood that the said sum per day is agreed upon as a fair estimate of the pecuniary damages which will be sustained by the Owner in the event that the Work is not completed within the agreed time, or within the agreed extended time, if any, otherwise provided for herein. Said sum shall be considered as liquidated damages only and in no sense shall be considered a penalty, said damages being caused by, but not limited to, additional compensation for personnel, attorneys fees, architectural fees, engineering fees, program management fees, inspection fees, storage costs, food service costs, transportation costs, utilities costs, costs of temporary facilities, loss of interest on money, and other miscellaneous increased costs, all of which are difficult to exactly ascertain. Failure to complete the Work within the designated or agreed extended dates of Substantial or Final Completion, shall be construed as a breach of this Agreement.

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

.3 Timely Final Completion is an essential condition of this Agreement. Construction Manager agrees to achieve Final Completion of the Agreement within 30 days of the designated or extended date of Substantial Completion. Owner and Construction Manager agree that should Construction Manager fail to achieve Final Completion of the Agreement by the deadline, Owner shall continue to be damaged to a greater degree by such delay. Construction Manager and Owner agree that the amount of liquidated damages for each calendar day Final Completion is delayed beyond the date set for Final Completion shall be the sum As later to be set forth in the GMP Amendment. Owner may deduct from the Final Payment made to Construction Manager, or, if sufficient funds are not available, then Construction Manager shall pay Owner the amounts specified per day for each and every calendar day the breach continues after the deadline for Final Completion of the Work.

.4 Such damages shall be in addition to, and not in lieu of, any other rights, claims or remedies Owner may have against Construction Manager. If the Work is not finally completed by the time stated in the Agreement, or as extended, no payments for Work completed beyond that time shall be made until the Project reaches Final Completion.

§ 6.1.12 Other:

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

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

§ 6.2 Guaranteed Maximum Price

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

§ 6.3 Changes in the Work

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

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

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

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

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

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

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean the following direct, actual and verifiable costs reasonably and necessarily incurred by the Construction Manager in the proper performance of the Work, except those costs compensated as general conditions under Section 6.1.5 above. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7. Cost of the Work that exceeds the Guaranteed Maximum Price shall be borne by the Construction Manager.

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

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

§ 7.2 Labor Costs

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

§ 7.2.2 (Paragraph Intentionally Deleted)

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

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

To be listed in Assumptions & Clarifications Attachment to GMP Amendment

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

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

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

§ 7.3 Subcontract Costs

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

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

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

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

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

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

§ 7.5.2 (Paragraph Intentionally Deleted)

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

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

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

§ 7.6 Miscellaneous Costs

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

(Paragraphs deleted)

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

§ 7.6 Miscellaneous Costs

§ 7.6.1 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.

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

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

(Paragraphs deleted)

§ 7.7 Other Costs and Emergencies

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

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

§ 7.7.3 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9 or other provision of or amendment to this Agreement. However, notwithstanding anything in Article 7 to the contrary, no reimbursable cost or expense will be paid again if it is also included and paid in any general conditions amount submitted by Construction Manager.

(Paragraph 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 or refuses to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

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

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

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ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

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

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

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

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

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

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

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

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

- .1 The successful proposer's responsibility to provide workers' compensation insurance in accordance with Texas Labor Code Chapter 406;
- .2 The successful proposer's responsibility to pay prevailing wages pursuant to Texas Government Code Chapter 2258; 73
- .3 A notice of the sales tax exemption for the Work and the procedure for obtaining any required exemption verification or certificate;
- .4 The notice regarding trench and shoring safety required by Texas Health and Safety Code Section 756.023.
- .5 The following shall be included in any information to proposers, Request for Proposals, or Bid Documents:

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

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

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

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

ARTICLE 10 ACCOUNTING RECORDS

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

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

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

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the 74 month.

§ 11.1.3 The Construction Manager shall submit monthly Applications for Payment to both the Architect and Program Manager, if applicable, on AIA Form G702 for approval. Continuation sheets shall be submitted on AIA Form G703. If the Architect and Program Manager, if applicable, approve the application, then they shall submit a Certificate for Payment to the Owner. The Architect and Program Manager, if applicable, may require any additional information deemed necessary and appropriate to substantiate the Application for Payment. The Owner shall have the right to withhold from payments due Construction Manager such sums as are necessary to protect Owner against any loss or damage which may result from negligence by Construction Manager or failure of Construction Manager to perform Construction Manager's obligations under this Contract. Materials that are verified to be on the jobsite or other approved location for use in the Project may also be incorporated into the Application for Payment. The Architect and Program Manager, if applicable, shall have seven (7) days from date of receipt from the Construction Manager of an Application for Payment to approve or reject all or any part of the Application for Payment. The Owner shall pay the undisputed amounts certified by the Architect and Program Manager, if applicable, to the Construction Manager within thirty (30) days of receipt of the Certificate for Payment from the Architect and Program Manager, unless otherwise provided in the

Contract Documents. Undisputed amounts unpaid after the date on which payment is due shall bear interest pursuant to Texas Government Code Section 2251.025.

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee. Each Application for Payment shall also include a list, with backup data, of how each payment shall be spent, including a list detailing which subcontractors and suppliers will be paid out of funds paid by the Owner and the amount of such payments to subcontractors and suppliers, and in the next payment cycle, proof of each payment to Construction Manager's subcontractors and suppliers after payment. The Construction Manager shall promptly pay all bills validly due and owing for labor and material performed and furnished by others in connection with the performance and construction of the Work.

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

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

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

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

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

§ 11.1.7 In accordance with AIA Document A201-2017 and subject to other provisions of the Contract Documents, the 75 amount of each progress payment shall be computed as follows:

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

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

Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors, accountants, or other representatives, in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.
- .7 Subtract retainage to be calculated in accordance with Texas Government Code Chapter 2252, subchapter B.
- .8 The progress payment amount determined in accordance with this Section shall be further modified under the following circumstances:
 - .1 Add, if Final Completion of the Work is thereafter materially delayed by Owner or Owner’s agents through no fault of the Construction Manager, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201- 2017, as amended.
 - .2 If Owner is entitled to deduct liquidated damages, or any other damages or amounts provided in the Contract Documents, including clean-up fees, then Owner shall be entitled to deduct such liquidated damages, amounts and fees due Construction Manager at any time.
 - .3 If Construction Manager fails or refuses to complete the Work, or has unsettled claims with Owner, then any final payment to Construction Manager shall be subject to deduction for such amounts as the Architect and Program Manager, if applicable, shall determine as the cost for completing incomplete Work and the value of unsettled claims.

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

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

§ 11.1.7.4 In the event of Contract termination or default by the Contractor, the items stored off the site, upon which payment has been made, will be promptly turned over to the Owner or Owner’s designated representative at a location

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near the Project site as directed by the Owner or Owner's designated representative. The full provisions of Performance and Payment Bonds on this Project cover the materials stored off the site in every respect as though they were stored on the Project site.

§ 11.1.8 Retainage

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

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

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

§ 11.1.8.1.1 The following items are not subject to retainage:

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

N/A

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

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

Retainage may be reduced at Owner's sole discretion.

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

(Paragraphs deleted)

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

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

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors. The percentage of retainage held on Subcontracts shall be the same percentage of retainage withheld from Construction Manager. The Construction Manager shall execute subcontracts that contain the same terms and conditions as those contained in this Agreement.

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

§ 11.2 Final Payment

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

- .1 the Construction Manager has fully performed the Contract, including the Construction Manager's responsibility to correct Work, except for the Construction Manager's responsibility to satisfy other requirements, if any, which Owner agrees in writing necessarily extend beyond final payment;

- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment that are certified by Construction Manager and reviewed and approved by the Owner's auditors or other representatives;
- .3 a final Certificate for Payment has been issued by the Architect and approved by Program Manager, if applicable, in accordance with Section 11.2.2.2;
- .4 Construction Manager has provided all documents required by Section 9.10.2 of AIA Document A201-2017, as amended; and
- .5 Owner's Board of Trustees has voted to accept the Work and approve Final Payment.

§ 11.2.2 Within thirty (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.

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

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

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

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

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

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

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- .6 If Construction Manager fails or refuses to complete the Work, or has unsettled claims with Owner, then subtract such amounts as the Architect shall determine as the cost for completing incomplete Work and the value of unsettled claims.
- .7 Subtract all previous payments made by the Owner.
- .8 In no event shall the total of subsections .1, .2, and .3 above exceed the Guaranteed Maximum Price.
- .9 If the aggregate of previous payments made by the Owner exceeds the amount due the Construction Manager, the Construction Manager shall reimburse the difference to the Owner, plus interest as allowed by law.

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

§ 11.3 Interest payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the maximum rate permitted by law, in accordance with Texas Government Code Chapter 2251.

(No Interest Rate Agreed Upon)

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

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

(Paragraphs deleted)

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

§ 12.2 Binding Dispute Resolution

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

(Check the appropriate box.)

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

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

ARTICLE 13 TERMINATION OR SUSPENSION

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

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

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

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

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

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

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

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the 80 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.

Init.

§ 13.2.2 Termination by the Owner for Cause

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

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager’s Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager’ Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

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

§ 13.2.3 Termination by the Owner for Convenience

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

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

§ 13.3 Suspension

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

ARTICLE 14 MISCELLANEOUS PROVISIONS

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

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§ 14.2 Successors and Assigns

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

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall purchase and maintain insurance as required by Article 11, A201-2017 as amended for this Project, to protect Construction Manager and Owner against all claims, damages, lawsuits, indemnities, or other

actions which may arise out of or result from the Construction Manager's operations under this Contract, whether such operations are by Construction Manager, or by any subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable. Prior to performing the Work, the Construction Manager shall provide separate performance and payment bonds in accordance with AIA Document A201- 2017 Section 11.5.

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

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned, hired, or any other vehicles used, by the Construction Manager with policy limits of not less than one million (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage. (Note: Texas statutory minimum for school districts is \$100,000.00 per person, \$300,000.00 per occurrence, and \$100,000.00 property damages.) Such minimum limits shall be stated as follows, or in a combined single limit policy in the amount of at least \$1,000,000.00

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

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

(Paragraph deleted)

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

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

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

(Paragraphs deleted)

§ 14.3.1.5.1 Texas Workers Compensation Insurance

A copy of a certificate of insurance, a certificate of authority to self-insured issued by the Texas Department of Insurance (TDD) or a coverage agreement (WC-81. DWC-82. DWC 83, or DWC-84), showing statutory workers compensation insurance coverage for the Contractor's employees providing services on a Project is required for the duration of the Project.

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

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

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

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

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

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

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

- .1 A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have, on file, certificates of coverage showing coverage for all persons providing services on the Project; and
- .2 No later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

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

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

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

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

- .1 Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all of its employees providing services on the Project for the duration of the Project:
- .2 Provide to the Contractor, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project for the duration of the Project;
- .3 Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project; 83
4. Obtain from each other person with who it contracts, and provide to the Contractor:
 - .1 A certificate of coverage, prior to the other person beginning work on the Project; and
 - .2 A new certificate of coverage showing extension of coverage, prior to the end of the coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.
- .5 Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;
- .6 Notify the Owner in writing by certified mail or personal deliver, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and

.7 Contractually require each person with whom in contracts to perform as required by items 1-6, with the certificates of coverage to be provided to the person for whom they are providing services.

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

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

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

28 TAC Section 110.110(i)

(Table deleted)

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

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

§ 14.3.2 Construction Phase

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

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

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§ 14.4

(Paragraphs deleted)

(Paragraph Intentionally Deleted)

§ 14.5 Other provisions:

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

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

§ 14.5.3 For the purposes of this Section, "covered employees" means employees, agents, or applicants of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means: any conviction or other criminal history information designed by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification under Texas Education Code Section 21.060, and 19 Texas Administrative Code Section 249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school; a felony offense under Texas Penal Code Title 5 Offense Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or an equivalent offense under federal law or the laws of another state.

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

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

§ 14.5.6 By executing this Agreement, Contractor verifies that it does not boycott Israel, and it will not boycott Israel during the terms of this Contract. Pursuant to Texas Government Code, Chapter 2271, as amended, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Contractor represents and warrants to the Owner that the Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.⁸⁵

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

§ 14.6

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

District shall send, not later than the third business day after the date the District receives the written request, a written request to the Contractor that Contractor provide that information to the District.

- .2 The Contractor must:
 - .1 Preserve all contracting information related to the Contract as provided by the records retention requirements applicable to the District for the duration of the Contract;
 - .2 Promptly, within four business days, provide to the District any requested contracting information that is in the custody or possession of the Contractor upon request of the District; and,
 - .3 On completion of the Contract, either:
 - .1 Provide to the District at no cost all contracting information related to the Contract that is in the custody or possession of the Contractor; or
 - .2 Preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the District.
- .3 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract and the Contractor agrees that the contract can be terminated if the Contractor knowingly or intentionally fails to comply with the requirements of that subchapter.
- .4 Further, under Texas Government Code Chapter 552.372(c), the District may not accept a bid for or awarding of a contract to an entity that the District has determined has knowingly or intentionally failed in a previous bid or contract to comply with Subchapter J, unless the District determines and documents that the entity has taken adequate steps to ensure future compliance.
- .5 If a Contractor fails to provide to the District the requested information, Texas Government Code Chapter 552.373 requires the District to notify the Contractor in writing of the failure and allow 10 business days to cure the violation. District may terminate the Contract if Contractor fails to remedy the failure, District determines the failure was knowing and intentional, and steps have not been taken to ensure future compliance."
- .6 If Contractor is not a sole proprietorship, has ten (10) or more employees, and the value of Contractor's bid or proposal has a value of \$100,000 or more, Contractor certifies by submitting Contractor's bid or proposal that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined by Texas Government Code Ann. Chapter 2274, and will not during the term of any contract with the Owner, unless excepted from that law.
7. As required by Texas Government Code Ann. Chapter 2274, if Contractor has ten (10) or more⁸⁶ employees, is not a sole proprietorship, and if the value of Contractor's bid or proposal has a value of \$100,000 or more, Contractor certifies by submitting Contractor's bid or proposal that it does not boycott energy companies and will not during the term of any contract with the Owner, unless excepted by that law.

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

ARTICLE 15 SCOPE OF THE AGREEMENT

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

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

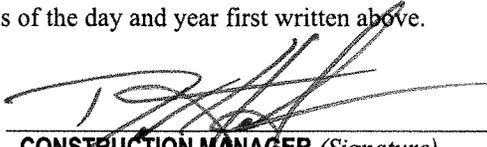
- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, once, and if executed.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

(Paragraphs deleted)
as amended by Owner.

(Table deleted)

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

OWNER *(Signature)*
 Dr. Keeley Boyer Superintendent
(Printed name and title)



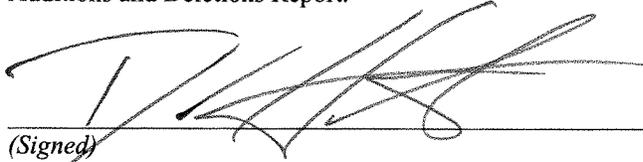
CONSTRUCTION MANAGER *(Signature)*
 Daniel Horton President
(Printed name and title)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

Daniel Horton

I, ~~Chad Henthorn~~, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:06:27 ET on 03/20/2026 under Order No. 3104239132 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of 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, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

President

(Title)

3/20/26

(Dated)

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

2023 Bond Program New Construction
ECISD Transportation Facility

THE OWNER:

(Name, legal status and address)

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

THE ARCHITECT:

(Name, legal status and address)

Parkhill
1700 W. Wall, Suite 100
Midland, TX 79701

THE CONTRACTOR:

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

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

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

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

ADDITIONS AND DELETIONS:

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

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

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

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

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

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

§ 1.1.2 The Contract

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

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

(Paragraphs deleted)

§ 1.1.3 The Work; Construction Documents

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

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

§ 1.1.4 The Project

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

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

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

(Paragraphs deleted)

§ 1.1.7 Construction Documents

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

[Intentionally deleted.]

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

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

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

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

§ 1.1.13 Abbreviations

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

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

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

§ 1.1.15 Miscellaneous Other Words

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

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

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

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

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

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

§ 1.2 Correlation and Intent of the Contract Documents

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

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

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

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

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

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

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

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

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

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

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

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

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

§ 1.6 Notice

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

[Intentionally deleted.]

(Paragraph deleted)

§ 1.7 Digital Data Use and Transmission

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

[Intentionally deleted.]

(Paragraphs deleted)

ARTICLE 2 OWNER

§ 2.1 General

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

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

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

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

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

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

§ 2.2 Owner's Financial Arrangements

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

§ 2.2.2 *[Intentionally deleted.]*

§ 2.2.3 *[Intentionally deleted.]*

§ 2.2.4 *[Intentionally deleted.]*

§ 2.3 Information and Services Required of the Owner

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

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

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

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. Other than the metes and bounds noted in the survey, if any,

Owner does not guarantee or warrant the accuracy of surveys provided, including the locations of utility lines, cables, pipes or pipelines, or the presence or absence of easements.

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

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

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

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

ARTICLE 3 CONTRACTOR

§ 3.1 General

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

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

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

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

- .1 that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;

- .2 that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;
- .3 that it is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental, public, and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and
- .4 that the execution of the Contract and its performance thereof are within its duly-authorized powers.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

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

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

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

§ 3.2.4 If the Contractor has knowledge that any of the products or systems specified will perform in a manner that will limit the Contractor's ability to satisfactorily perform the Work or to honor its warranty, or will result in a limitation of or interference with the Owner's intended use, then the Contractor shall promptly notify the Architect and Owner in writing, providing substantiation for its position. Any necessary changes, including substitution of materials, shall be accomplished by appropriate Modification. If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. Contractor shall take field measurements, verify field conditions, and shall carefully compare them to the Construction Documents. The Contractor shall be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities when the Contractor recognized or

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should have recognized such error, inconsistency, omission or difference and failed to report it to the Architect. Contractor shall not be entitled to additional compensation for additional Work caused by Contractor's failure to carefully study and compare the Construction Documents prior to the execution of the Work.

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

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

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

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

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§ 3.3 Supervision and Construction Procedures

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

in writing to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

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

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

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

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

- .1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work;
- .2 The special shoring requirements, if any, of the Owner; and
- .3 Any geotechnical information obtained by Owner for use by the Contractor in the design of the trench safety system.

- .4 Trench excavation safety protection shall be a separate pay item, and shall be based on linear feet of trench excavated. Special shoring requirements shall also be a separate pay item, and shall be based on the square feet of shoring used.

§ 3.3.6 The Contractor shall review Subcontractor safety programs, procedures, and precautions in connection with performance of the Work. However, the Contractor's duties shall not relieve any Subcontractor(s) or any other person or entity (e.g., a supplier), including any person or entity with whom the Contractor does not have a contractual relationship, of their responsibility or liability relative to compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances which shall include the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. The foregoing notwithstanding, the requirements of this Paragraph are not intended to impose upon the Contractor any additional obligations that the Contractor would not have under any applicable state or federal laws, including, but not limited to, any rules, regulations, or statutes pertaining to the Occupational Safety and Health Administration.

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

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

§ 3.4 Labor and Materials

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

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

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

§ 3.4.2.2 The Contractor must submit to the Architect: (i) a full explanation of the proposed substitution and submittals of all supporting data, including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation for the substitution; (ii) a written

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explanation of the reasons the substitution should be considered, including the benefits to the Owner and the Work in the event the substitution is acceptable; (iii) the adjustment, if any, in the Contract Sum; (iv) the adjustment, if any, in the time of completion of the Contract and the construction schedule; and (v) an affidavit stating (a) the proposed substitution conforms to and meets all requirements of the pertinent Specifications and the requirements shown on the Drawings, and (b) the Contractor accepts the warranty and will coordinate the Work to be complete in all respects, as if originally specified by the Architect. Proposals for substitutions shall be submitted in writing to the Architect in sufficient time to allow the Architect no less than fifteen (15) working days for review. No substitutions will be considered or allowed without the Contractor's submittals of complete substantiating data and information.

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

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

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

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

§ 3.4.6 CRIMINAL HISTORY CHECKS

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

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

§ 3.4.6.3 For the purposes of this Section, "covered employees" means employees, agents or applicants of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. The definition of "covered employees" does not include individuals working on the Work if the Work: (1.) does not involve the construction, alteration, or repair of an instructional facility as defined herein; (2.) involves construction of a new instructional facility and the person's duties related to other contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or (3.) involves an existing instructional facility and: (a.) the work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and (b.) the contracting entity adopts a policy prohibiting employees, contractors, and subcontractors from interacting with students or entering areas used by students, informs employees, contractors, and subcontractors of the policy, and enforces the policy at the work area. "Disqualifying criminal history" means: any conviction or other criminal history information designated by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification under Texas Education Code Section 21.060 and 19 Texas Administrative Code § 249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school; a felony offense under Texas Penal Code Title 5 Offenses Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure chapter 62; or an equivalent offense under federal law or the laws of another state; or a felony violation of Texas Penal Code Section 43.24 related to the sale, distribution or display of harmful materials to a minor. The term "instructional facility" means real property, and improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under the state curriculum for kindergarten through grade 12.

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

§ 3.4.7 PREVAILING WAGE RATES

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

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

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

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

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

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§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. The Contractor further warrants that Contractor shall perform the Work in a good and workmanlike manner, continuously and diligently in accordance with generally accepted standards of construction practice for construction of projects similar to the Project, except to the extent the Contract Documents expressly specify a higher degree of finish or workmanship, in which case the standard shall be the higher standard. All material shall be installed in a true and straight alignment, level and plumb; patterns shall be uniform; and jointing of materials shall be flush and level, unless otherwise directed

in writing by the Architect. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance (unless such maintenance is Contractor's responsibility), improper operation, or normal wear and tear and normal usage, but such exclusions shall only apply after Owner has taken occupancy of the damaged or defective point of the Project. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. Notwithstanding anything in the Contract Documents to the contrary, Owner and Contractor expressly agree that the warranties stated herein shall mean the individual warranties associated with each particular Work within the Project, and each such individual warranty shall run from the applicable Work's Final Completion date (unless otherwise expressly provided in the applicable Contract Documents for that particular Work). Contractor's express warranty is in addition to, and not in lieu of, Owner's other available remedies. All required warranties on equipment, machinery, materials, or components shall be submitted to the Architect on the manufacturer's or supplier's approved forms for delivery to the Owner. The warranties set out in this Subparagraph are not exclusive of any other warranties or guarantees set out in other places in the Contract Documents or expressed or implied under applicable law.

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

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

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

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

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

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

§ 3.5.7 Contractor shall maintain a complete and accurate schedule of the date(s) of Substantial Completion, the date(s) of Final Completion, and the dates upon which the warranty under Section 12.2 herein on each phase or building will expire. Contractor shall provide a copy of such schedules to Owner and Architect. Prior to termination of the warranty period under Section 12.2 herein, Contractor shall accompany Owner and Architect on re-inspection of each Work in the Project and Contractor shall be responsible for correcting any warranty items which are observed or reported during the warranty period under Section 12.2 herein. Contractor shall prosecute such warranty work under Section 12.2 herein without interruption until accepted by Owner and Architect, even though such work should extend beyond the warranty period under Section 12.2 herein. If Contractor fails to provide the schedules to Owner and Architect, Contractor's warranty obligation described herein shall continue until such inspection is conducted and deficiencies are corrected.

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

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

§ 3.6 Taxes

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

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§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 After Architect has filed the plans and specifications with the Texas Department of Licensing and Regulation, Architect shall notify Contractor that Contractor may make and submit the applications for the building permit. The Owner shall pay the municipality directly for the building permit and all other development "impact" fees, if any. The

Contractor shall continue to be responsible for payment of other permits, governmental fees, licenses, and inspections necessary for proper execution of the Contract and which are legally required when bids or proposals are received. Such fees and expenses shall only be reimbursable to Contractor if expressly agreed to herein.

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

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

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

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

§ 3.7.4 Concealed or Unknown Conditions

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

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§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect in writing. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to

resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.7.6 The Contractor shall be responsible for timely notification to and coordination with all utility companies regarding the provision of services to the Project. The Contractor shall inform the Architect at once when the Owner's participation is required, and the Architect shall immediately notify the Owner. Connections for temporary and permanent utilities and payment for temporary utilities services required for the Work, whether the Work is new construction or renovation of an existing facility, are the responsibility of the Contractor unless otherwise agreed. If the Work is new construction, then payment for temporary and/or permanent utility services shall be the responsibility of the Contractor until Substantial Completion.

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

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

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

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

§ 3.9 Superintendent

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

§ 3.9.2 *[Intentionally deleted.]*

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

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

§ 3.10 Contractor's Construction and Submittal Schedules

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

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

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

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

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§ 3.11 Documents and Samples at the Site

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

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

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. Specific dimensions, quantities, installation and performance of equipment and systems in compliance with the Construction Documents and the Contract Documents remain the Contractor's responsibility.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof. 116

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities

for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, completeness and accuracy of the services, certifications, and approvals performed or provided by such design professionals. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. A registered architect must prepare plans and specifications for all the Work, as governed by the Texas Occupations Code Chapter 1051; and a registered engineer must prepare plans, specifications and estimates for all Work governed by Texas Occupations Code Chapter 1001. In the event that Contractor retains a licensed design professional under the terms of this paragraph, Contractor shall require that the licensed design professional carry commercial general liability and errors and omissions insurance coverage in the same amounts and forms as required of the Architect on this Project. In the event that the licensed design professional retained by the Contractor will be conducting on-site services or observations, the licensed design professional shall also carry worker's compensation insurance and comprehensive automobile liability in the same amounts and forms as required of the Architect on this Project.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.12.11 The Contractor shall submit complete drawings, data and samples to the Architect at least fifteen (15) days prior to the date the Contractor needs the reviewed submittals and samples returned. The Contractor shall be prepared to submit color samples on any key items (such as quarry tile, vinyl wall covering, etc.) within fifteen (15) days of the award of Subcontract(s). All color samples required for the Work shall be received within sixty (60) days of the date of the approval of the Contract Sum if the Project is an A101 project, or Guaranteed Maximum Price if the Project is an A133 project. Once samples of all key items are received, the Architect will finalize color selections.

§ 3.12.12 The Contractor shall submit the number of copies of product data and samples which the Contractor and subcontractors need for their use, plus two additional sets for the Architect, one additional set for the Owner and one additional set for each of the Architect's consultants involved with the particular section of Work. Where shop drawings are involved, the Contractor shall submit one high quality reproducible transparency and one opaque print of the shop drawing for the Architect, plus one additional opaque print for each of the Architect's consultants involved with the particular section of Work. The reproducible transparency will be marked by the Architect and/or its consultants. After final review and correction of the submittal, the Contractor shall send one corrected set to the Architect and each of the Architect's consultants involved with the particular section of Work.

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§ 3.12.13 The Architect's review of Contractor's submittals shall be limited to examination of an initial submittal and one (1) re-submittal. The Architect's review of additional submittals will be made only with the consent of the Owner after notification by the Architect. The Owner shall be entitled to reimbursement from the Contractor of amounts paid to the Architect for evaluation of such additional re-submittals.

§ 3.12.14 The Contractor represents and warrants that all shop drawings shall be prepared by persons and entities possessing expertise and experience in the trade for which the shop drawings are prepared and, if required by the Architect or applicable law, by a licensed engineer.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other adversity is solely the responsibility of the Contractor.

§ 3.13.3 The Contractor and its subcontractors shall not erect any sign on the Project site without the prior written consent of the Owner.

§ 3.13.4 Contractor shall ensure that the Work, at all times, is performed in a manner that affords Owner reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed in such a manner that public areas adjacent to the Site of the Work shall be free from all debris, building material and equipment likely to cause hazardous conditions. Without limitation of any other provision of the Construction Documents, Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of any area or building adjacent to the site of the Work, or the building, in the event of partial occupancy.

§ 3.13.5 Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrance and parking areas other than those designated by the Owner. The Contractor shall comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the Building.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly, provided, however, that any such cutting, fitting or patching can only be performed if the cutting, fitting or patching results in Work that is in accordance with the Construction Documents and Contract Documents. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.14.3 No cutting of structural elements will be permitted unless specifically approved in writing by Architect. Fitting and patching shall only be done with new products, and shall only be performed by those skilled in performing the original Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall, on a daily basis, keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. Contractor shall provide on-site containers for the collection of waste materials, debris and rubbish, and shall periodically remove waste materials, debris and rubbish from the Work and dispose of all such materials at legal disposal areas away from the site. All cleaning operations shall be scheduled so as to ensure that contaminants resulting from the cleaning process will not fall on newly-coated or newly-painted surfaces. Immediately after unpacking materials, all packing case lumber or other packing materials, wrapping or other like flammable waste shall be collected and removed from the building and premises. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project. Care shall be taken by all workers not to mark, soil, or otherwise deface any finish. In the event that any finish becomes defaced in any way by mechanics or workers, the Contractor or any of its Subcontractors shall clean and restore such surfaces to their original condition.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.15.3 The Contractor shall be responsible for the protection of the Work. Prior to the Architect's inspection for Substantial Completion, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish

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transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.

§ 3.15.4 After construction is complete, Contractor shall: (1) employ skilled workers for final cleaning; (2) remove grease, mastic adhesive, dust, dirt, stains, fingerprints, labels and other foreign materials from all sight-exposed interior and exterior surfaces; (3) wash and shine glazing and mirrors; (4) polish glossy surfaces to a clear shine; (5) vacuum clean carpeted and similar soft surfaces; (6) clean (damp mop with clean mop and water) resilient and hard surface floors repeating as necessary until no visible residue remains on floors; (7) clean plumbing fixtures to a sanitary condition; (8) clean surfaces of all equipment and remove excess lubrication; (9) clean permanent filters and replace disposable filters in ventilating systems if units were operated during construction and clean ducts, blowers and coils; (10) clean light fixtures; (11) remove waste, foreign matter and debris from roofs, gutters, area ways and drainage ways; (12) remove waste, debris and surplus materials from the site; (13) remove stains, spills and foreign substances from paved areas; and (14) broom clean exterior concrete and paved surfaces and rake clean the grounds.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect and their designated representatives with access to the Work in preparation and progress wherever located. The presence of the Owner, Architect or their representatives does not constitute acceptance or approval of the Work.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. THE CONTRACTOR SHALL DEFEND SUITS OR CLAIMS FOR INFRINGEMENT OF COPYRIGHTS AND PATENT RIGHTS, SHALL WAIVE AND RELEASE CLAIMS AGAINST THE OWNER AND ARCHITECT, AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER AND ARCHITECT FROM LOSS ON ACCOUNT THEREOF, PROVIDED, HOWEVER, CONTRACTOR SHALL NOT BE RESPONSIBLE TO ARCHITECT FOR SUCH DEFENSE OR LOSS WHEN A PARTICULAR DESIGN, PROCESS OR PRODUCT OF A PARTICULAR MANUFACTURER OR MANUFACTURERS IS REQUIRED BY THE CONTRACT DOCUMENTS, OR WHERE THE COPYRIGHT VIOLATIONS ARE CONTAINED IN DRAWINGS, SPECIFICATIONS OR OTHER DOCUMENTS PREPARED BY THE ARCHITECT, AND SHALL NOT BE RESPONSIBLE TO OWNER IF OWNER REQUIRES A PARTICULAR DESIGN, PROCESS OR PRODUCT THAT CONSTITUTES A COPYRIGHT VIOLATION. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Owner and Architect in writing.

§ 3.18 Indemnification

§ 3.18.1 TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL WAIVE AND RELEASE CLAIMS AGAINST AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, ARCHITECT, OWNER'S TRUSTEES, ARCHITECT'S CONSULTANTS, OWNER'S CONSULTANTS AND OFFICERS, AGENTS AND EMPLOYEES OF ANY OF THEM, FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, CAUSES OF ACTION, SUITS, JUDGMENTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, PROVIDED THAT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (INCLUDING THE WORK ITSELF) INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, ANYONE THEY CONTROL OR EXERCISE CONTROL OVER, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN PART BY ANY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF OWNER OR OWNER'S CONSULTANTS OR OTHER INDEMNIFIED PARTIES. SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY THAT WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS SECTION 3.18. ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY CONTRACTOR TO THE INDEMNIFIED PARTIES, AND ANY COST AND EXPENSES SO INCURRED BY INDEMNIFIED PARTIES SHALL BEAR INTEREST UNTIL REIMBURSED

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BY CONTRACTOR, AT THE RATE OF INTEREST PROVIDED TO BE PAID BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF TEXAS.

§ 3.18.2 IN CLAIMS AGAINST ANY PERSON OR ENTITY INDEMNIFIED UNDER THIS SECTION 3.18 BY AN EMPLOYEE OF THE CONTRACTOR, A SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION UNDER SECTION 3.18.1 SHALL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR A SUBCONTRACTOR UNDER INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS.

§ 3.18.3 THE OBLIGATIONS OF THE CONTRACTOR UNDER THIS SECTION 3.18 SHALL NOT EXTEND TO THE LIABILITY OF THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND AGENTS AND EMPLOYEES OF ANY OF THEM, CAUSED BY OR RESULTING FROM: (1) DEFECTS IN PLANS, DESIGNS, OR SPECIFICATIONS PREPARED, APPROVED, OR USED BY THE ARCHITECT OR ENGINEER; OR (2) NEGLIGENCE OF THE ARCHITECT OR ENGINEER IN THE RENDITION OR CONDUCT OF PROFESSIONAL DUTIES CALLED FOR OR ARISING OUT OF THE CONSTRUCTION CONTRACT AND THE PLANS, DESIGNS, OR SPECIFICATIONS THAT ARE A PART OF THE CONSTRUCTION CONTRACT; AND (3) ARISING FROM : (A) PERSONAL INJURY OR DEATH; (B) PROPERTY DAMAGE; OR (C) ANY OTHER EXPENSE THAT ARISES FROM PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, OR AS OTHERWISE LIMITED BY TEXAS CIVIL PRACTICE & REMEDIES CODE SECTION 130.001 *ET SEQ.*

§ 3.18.4 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS IS PROVIDED IN SECTION 3.18.1 ABOVE. LIKEWISE, CONTRACTOR AGREES TO INDEMNIFY AND TO HOLD THE OWNER'S OTHER CONTRACTORS HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS PROVIDED IN SECTION 3.18.1 ABOVE.

§ 3.18.5 THE PROVISIONS OF SECTION 3.18 IN ITS ENTIRETY SHALL SURVIVE THE COMPLETION, TERMINATION OR EXPIRATION OF THIS CONTRACT.

§ 3.18.6 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under Paragraph 3.18, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect.

§ 3.18.7 It is understood and agreed that Subparagraph 3.18.1 above is subject to, and expressly limited by, the terms and conditions of Texas Civ. Prac. & Rem. Code Ann. Sec. 130.001 to 130.005, as amended.

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§ 3.18.8 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (INCLUDING THE WORK ITSELF) INCLUDING LOSS OF USE, TO THE SAME EXTENT AS PROVIDED IN SUBPARAGRAPH 3.18.1 ABOVE.

§ 3.19 ANTITRUST VIOLATION. To permit the Owner to recover damages suffered in antitrust violations, Contractor hereby assigns to Owner any and all claims for overcharges associated with this Contract which violate the antitrust laws of the United States, 15 U.S.C.A. Section 1 *et seq.* The Contractor shall include this provision in its agreements with each subcontractor and supplier. Each subcontractor shall include such provisions in agreements with sub-subcontractors and suppliers.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner.

§ 4.1.3 Except as expressly provided herein, the Contractor shall not be relieved of Contractor's obligation to perform the Work in strict accordance with the Construction Documents and the Contract Documents by the duties, responsibilities, or activities of the Architect.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction, until final payment is due, and, with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Section 12.2.2. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, or as they may be amended in the future.

§ 4.2.2 Architect shall visit the site at least once per week (or more per week when deemed necessary by the Owner's Superintendent or when necessary to protect Owner's interests) and at other intervals appropriate to the stage of construction, to inspect the progress, quantity and quality of the work completed, to reject any observed nonconforming Work, and to determine if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Construction Documents and the Contract Documents and on time. Furthermore, a minimum of two job site meetings per month from commencement of construction through Final Completion will be initiated by the Architect and attended by the Contractor. Attendees will include the Owner, the Contractor's project manager and/or superintendent, Architect's project representative, and Architect. The Architect, Owner and their representatives shall at all times have access to the Work. Architect or its structural consultant will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition, Architect or its structural consultant will provide on-site observations prior to covering up or closing up of portions of the construction which, if covered, would conceal problems with the structural integrity of the Project. Contractor shall not close or cover said Work until said observations have occurred. Contractor or Architect will advise Owner of the need for any third-party laboratory or testing services to assist the Architect and Owner. On the basis of the on-site observations by Architect, Architect shall keep Owner and Contractor informed of the progress and quality of the Work, through Architect's field reports, and shall guard Owner against defects and deficiencies in the Work. Architect shall promptly notify Owner and Contractor orally regarding any defect or nonconforming Work, which shall be followed by notice in writing of defects or nonconforming Work noted and corrective actions taken or recommended. The Architect, however, shall not have control over or responsibility for the Contractor's construction means, methods, techniques, sequences, procedures, or safety programs, but this does not relieve Architect of Architect's responsibilities under this Agreement. Any services by Contractor made necessary by Contractor's construction defect or nonconforming Work shall be performed at no additional cost to Owner.

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§ 4.2.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work. The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect, or request of the Contractor.

§ 4.2.4 Communications

Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. However, Owner reserves the right to communicate directly with the Contractor and Subcontractors. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner.

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§ 4.2.5 As further provided in the Contract Documents, based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect shall reject Work that does not conform to the Construction Documents and the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have will recommend to Owner additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Owner to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. Architect and/or Contractor shall promptly notify, orally and in writing, the other party and Owner of any fault or defect in the Project or nonconformance with Construction Documents or the Contract Documents they may respectively discover and each, upon discovery of the defect or nonconformance, shall be responsible for notifying the other party and Owner of those corrective actions they respectively take; provided, however, Contractor shall have no duty to notify Owner of discoveries made or actions taken by Architect. Testing or inspections required by this subparagraph shall be conducted subject to the requirements of Chapter 2269 of the Texas Government Code.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Construction Documents and the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or Separate Contractors while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation of equipment or systems, all of which remain the responsibility of the Contractor as required by the Construction Documents and the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. If any submittal does not comply with the requirements of the Construction Documents or the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples.

§ 4.2.8 The Architect shall review, prepare and make recommendations to Owner regarding all Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Construction Documents and the Contract Documents, accompanied by all supporting documentation. The Architect may authorize minor changes in the Work not involving an adjustment in Contract Sum or Guaranteed Maximum Price, or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified, as provided in Section 7.4. The Architect shall accept requests by the Owner, and shall review properly prepared, timely requests by the Contractor for changes in the Work, including adjustments to the Contract Sum or Guaranteed Maximum Price, or Contract Time. A properly prepared request for a change in the Work by the Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Construction Documents or the Contract Documents, and do not change the Contract Sum or Guaranteed Maximum Price, or Contract Time, then the Architect may issue an order for a minor change in the Work with prior written notice to the Owner or recommend to the Owner that the requested change be denied. The Architect is not authorized to approve changes involving major systems such as: Heating, Ventilation and Air Conditioning ("HVAC"); roof; foundation; outward appearance; color schemes; floor plans; building materials; drainage or mechanical equipment without Owner's prior written consent.

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§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and

assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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

§ 4.2.12 Interpretations or recommendations of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and recommendations, the Architect will endeavor to secure faithful performance by both Owner and Contractor.

§ 4.2.13 The Owner's decisions on matters relating to aesthetic effect shall be final.

§ 4.2.14 The Architect will review and respond to requests for information about the Construction Documents and the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information, at no additional cost to the Owner.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect in writing of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect shall notify in writing the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. All subcontractors shall be procured in accordance with Texas Education Code Chapter 44, Subchapter B, and Texas Government Code Chapter 2269, as applicable. A notice of no reasonable objection shall in no way relieve the Contractor from full responsibility for performance and completion of the Work and its obligations under the Contract Documents. The Contractor shall be fully responsible for the performance of its subcontractors, including those recommended or approved by the Owner.

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§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. When the parties agree on a proposed substitute Subcontractor, then the Contract Sum and Contract Time may be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time

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shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.2.5 Each Contractor or subcontractor shall be required to completely familiarize itself with the plans and specifications, to visit the Work site to completely familiarize itself with existing conditions, and to conduct any other appropriate investigations, inspections or inquiries prior to submission of a bid or proposal. No increases in Contract Sums or Guaranteed Maximum Price shall be allowed for failure to so inspect or investigate.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. The terms and conditions of the Contract Documents shall be incorporated by reference into each subcontract agreement, included as provided below. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors. Each subcontractor shall provide proof of insurance to Contractor consistent with the Contractor's insurance to Owner and in an amount commensurate with the Work to be performed by the Subcontractor.

§ 5.3.1 Neither the Owner nor the Architect shall be obligated to pay or to insure the payment of any monies to subcontractors due to any non-payment to the Contractor or non-payment of subcontractors by the Contractor.

§ 5.3.2 The Contractor shall require any potential subcontractor to disclose to the Contractor any ownership interest or familial relationship between the Contractor, the Architect or the Owner and the potential subcontractor prior to entering into a subcontract. Contractor shall report to Owner all such disclosures and the Owner shall have the right, in its sole discretion, to reject any such affiliated subcontractor.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for any unperformed portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause or convenience pursuant to Article 14 or abandonment of the Project by the Contractor; and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights and obligations of the surety, if any, obligated under bond relating to the Contract; and
- .3 the Subcontractor provides bonds as required by law or prime contractors and by Owner.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Such assignment shall not constitute a waiver by Owner of its rights against Contractor, including, but not limited to, claims for defaults, delays or defects for which a subcontractor or material vendor may also be liable.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. Owner shall only be responsible for compensating subcontractors for Work

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performed or materials furnished from and after the date on which the Owner gives written notice of its acceptance of the subcontract agreement. Owner shall not be responsible for any Work performed or materials furnished by subcontractors prior to the date of Owner's written notice of acceptance.

§ 5.5 NOTICE OF SUBCONTRACTOR DEFAULT

Contractor shall promptly notify Owner and Architect of any material defaults by any Subcontractor or Sub-subcontractor. Notwithstanding any provision contained in Article 5 to the contrary, it is hereby acknowledged and agreed that Owner has in no way agreed, expressly or implicitly, nor will Owner agree, to allow any Subcontractor, Sub-subcontractor or other materialman or worker employed by Contractor the right to obtain a personal judgment or to create a mechanic's or materialman's lien against Owner for the amount due from the Owner or the Contractor.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. The Owner reserves the right to perform other non-Project-related construction work, maintenance and repair work, and school program operations at the site and near the site during the time period of the Work.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Contractor shall coordinate the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor to ensure that the Work remains on schedule. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement between the Owner and Contractor. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 *[Intentionally deleted.]*

§ 6.2 Contractor's Responsibility

§ 6.2.1 It shall be the responsibility of the Contractor to assist, review, and coordinate the scheduling of work performed by any of the Owner's Separate Contractors. In addition, the Contractor shall be responsible for coordinating and providing all construction administration necessary for the Work and the work of any of Owner's Separate Contractors. The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for site access and introduction and storage or staging of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents. Contractor shall be responsible for coordination between Contractor's subcontractors and Owner's Separate Contractors. Contractor shall review Owner's contract with Owner's Separate Contractors and become familiar with the requirements and scope of services contained therein.

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§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify in writing the Architect and Owner of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work, and shall promptly report in writing to the Architect and Owner if Owner's Separate Contractors fail in any way to timely perform their services or negatively impact Contractor's schedule or ability to perform the Work. Failure of the Contractor to notify in writing the Architect and Owner of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper and is performed in a timely manner to receive the Contractor's Work. The Contractor shall not be responsible for latent discrepancies or defects in the construction or operations by the Owner or Separate Contractor.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction.

§ 6.2.3.1 If the Architect is required to provide additional services as provided in the Agreement between the Owner and the Architect, specifically relating to additional compensation for the Architect for evaluating an excessive number of claims submitted by the Contractor or others in connection with the Work in accordance with the Owner's Agreement with the Architect, then such services shall be paid for by the Contractor through the Owner, unless the additional services result from negligence of or an act or omission by the Architect.

§ 6.2.3.2 If the Architect provides services in connection with a legal proceeding, except when the Architect is a party thereto, and the Owner requests the Architect in writing to provide such services, then the cost of such services shall be paid for by the party whose act or omission was a proximate cause of the problem that led to the requirement to provide such services. Such services shall be paid for by such party through the Owner, who upon receipt of same shall reimburse the Architect.

§ 6.2.3.3 All construction costs resulting from the Contractor's negligence, lack of oversight, inattention to detail, failure to investigate, or failure to follow the Construction Documents or Contract Documents, will be borne by the Contractor.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Owner will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. A properly prepared written request for a change in the Work by Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a recommendation to Owner.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents or Construction Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work. Contractor shall not make any claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price due to: a change in the materials used; a change in the specified manner of constructing and/or installing the Work; or additional labor, services, or materials, beyond that actually required by the terms of the Construction Documents or the Contract Documents, unless made pursuant to a written order or directive from Owner authorizing Contractor to proceed with a change in the Work. No claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price shall be valid unless so ordered or directed.

§ 7.1.4 The total Contractor mark-up for overhead, profit, or fee for work performed by the Contractor's own forces shall not exceed 10% of the cost of the change in the Work. The total Contractor mark-up for overhead, profit or fee for supervision of work performed by subcontractors' forces shall not exceed 4% of the cost of the change in the Work. The total subcontractor mark-up for overhead, profit or fee for work performed by the subcontractor's forces shall not exceed 10% of the cost of the change in the Work. In no event shall total mark-up for overhead, profit or fee in any

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work which involves a subcontractor or one or more sub-subcontractors, regardless of who performs the work, exceed 14% of the total cost of the change in the Work.

§ 7.1.5 Allowance balances may be used to fund changes in the Work. The Contractor will not be allowed an overhead, profit, or fee mark-up when changes in the Work are funded by one of the Allowances.

§ 7.1.6 If the Contract Sum is \$1,000,000.00 or more, or if the Contract Sum is less than \$1,000,000.00, and any Change Order, Construction Change Directives, or other Changes in the Work would increase the Contract Sum to \$1,000,000.00 or more, the total of all Change Orders, Construction Change Directives, or other Changes in the Work may not increase the Contract Sum by more than 25% of the original Contract Sum. Any Change Order, Construction Change Directive, or other Change in the Work that would exceed that limit is void and of no effect. Texas Education Code § 44.0411.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum or Guaranteed Maximum Price; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods used in determining adjustments to the Contract Sum or Guaranteed Maximum Price may include those listed in Section 7.3.3.

§ 7.2.3 Contractor stipulates that acceptance of a Change Order by the Contractor constitutes full accord and satisfaction for any and all Claims, whether direct or indirect, arising from the subject matter of the Change Order.

§ 7.2.4 In no event shall a single change, or the aggregate of all changes, result in the total costs, reimbursements and fees exceeding the Contract Sum or the Guaranteed Maximum Price, unless agreed to in writing by Owner prior to the commencement of such modified or changed Work.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum, or Guaranteed Maximum Price, or Contract Time, or all of the above. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum or Guaranteed Maximum Price and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum or Guaranteed Maximum Price, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon (additional mark-ups for overhead, profit, and fees will not be allowed);
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee, subject to the limitations of subparagraph 7.4.1; or
- .4 As provided in Section 7.3.4, subject to the limitations of subparagraph 7.1.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum or Guaranteed Maximum Price, then Architect shall determine the adjustment on the basis of the amount by which the Contractor's direct costs have actually been increased over the direct cost of performing the Work without the Change in the Work. Direct costs shall be limited to the following:

- .1 Actual costs of labor, including applicable payroll taxes, and workers' compensation insurance;

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- .2 Actual costs of materials, supplies, and equipment, including cost of transportation used in performing the Change in the Work;
- .3 Actual rental costs of machinery and equipment rented from third parties, exclusive of hand tools;
- .4 Actual costs of premiums for all bonds and insurance, and permit fees;
- .5 Costs of supervision and field office personnel directly attributable to the change.

The Contractor shall keep and present, in such form as the Architect or Owner may prescribe, an itemized accounting of the items listed above, together with appropriate supporting documentation.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Guaranteed Maximum Price, or Contract Time, provided that, pursuant to Texas Government Code Section 2251.0521, Contractor shall not be required to proceed with additional work nor be responsible for any damages resulting from not proceeding with such work absent a fully-executed Change Order when such Construction Change Directive, either individually or collectively with other Construction Change Directives for which no Change Order has been fully executed, exceeds ten percent (10%) of the Guaranteed Maximum Price or the Contract Sum. No subcontractor shall be required to proceed with additional work nor be responsible for any damages resulting from not proceeding with such work absent a fully-executed Change Order when such Construction Change Directive, either individually or collectively with other Construction Change Directives for which no Change Order has been fully executed, exceeds ten percent (10%) of the subcontractor's contract amount.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum or Guaranteed Maximum Price, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost plus the Contractor's allocated percent of profit and overhead, all as confirmed by the Architect.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

With prior written notice to the Owner's representative, the Architect may order minor changes in the Work that are consistent with the Contract Documents or Construction Documents and do not involve an adjustment in the Contract Sum or Guaranteed Maximum Price, or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Guaranteed Maximum Price, or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Guaranteed Maximum Price, or Contract Time, the Contractor waives any adjustment to the Contract Sum or Guaranteed Maximum Price, or extension of the Contract Time. The Contractor shall carry out such written orders promptly. Minor changes in the Work shall not include changes that involve the outward appearance of the structure, color schemes, floor plans, building materials, landscaping, or mechanical equipment.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Final Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the first business day after Contractor's receipt of the written Notice to Proceed. The Notice to Proceed shall not be issued by Architect until the Agreement (or Amendment, if Contractor is a Construction Manager at Risk) has been signed by the Contractor, approved by Owner's Board of Trustees, signed by the Owner's authorized representative, and Owner and Architect have received, and approved as to form, all required payment and performance bonds and insurance, in compliance with Article 11. Issuance of the Notice to Proceed shall not relieve the Contractor of its responsibility to comply with Article 11..

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8. The date of Final Completion is the date certified by the Architect in accordance with Paragraph 9.10. Unless otherwise agreed in writing by Owner, Contractor agrees that Final Completion shall occur not more than 30 days after the date of Substantial Completion.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor stipulates that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial and Final Completion within the Contract Time.

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§ 8.2.4 The Contractor is subject to liquidated damages, as specified in the Agreement, if the Work is not completed by the date of Substantial Completion or the date of Final Completion.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by fire, governmental actions, or adverse weather conditions documented in accordance with Section 15.1.6.2; (4) by delay authorized in writing by the Owner; or (5) by other causes that the Contractor asserts, and the Architect and Owner determine, may justify delay, then the Contract Time may be extended for such reasonable time as the Architect and Owner may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

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§ 8.3.3 This Agreement does not permit the recovery of damages, including, without limitation, extended home office overhead expenses, general conditions, or other consequential damages, by the Contractor for delay or disruption or for extensions of time due to bad weather or acts of God. Contractor agrees that the only possible compensation for any delay is an extension of time.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. In the event that the Project is a Construction Management at Risk Project, the Contract Sum shall not exceed the Guaranteed Maximum Price.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices may be equitably adjusted by prior written agreement.

§ 9.2 Schedule of Values

§ 9.2.1 Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum or in the case of a Guaranteed Maximum Price, within 15 days after establishing the Guaranteed Maximum Price, to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The schedule of values shall be prepared in such a manner that each major item of work, whether done by Contractor's own forces or subcontracted, is shown as a single line item on AIA Documents G702 and G703, Application and Certificate for Payment and Continuation Sheet. If the Contractor is a Construction Manager at Risk, then the Contractor's fee and general conditions shall be specifically shown, and AIA Documents G702CMa and G703 shall be used.

§ 9.2.2 If the project is a Construction Manager at Risk project, in order to facilitate the review of Applications for Payment, the Schedule of Values shall be submitted on AIA Documents G702 and G703, and shall include the following:

- .1 Contractor's cost for Contractor's fee (if applicable) bonds and insurance, mobilization, or general conditions, etc. shall be listed as individual line items.
- .2 Contractor's costs for various construction items shall be detailed. For example, concrete work shall be subdivided into footings, grade beams, floor slabs, or paving, etc.
- .3 On major subcontracts, such as mechanical, electrical and plumbing, the schedule shall indicate line items and amounts in detail (for example: underground, major equipment, fixtures, installation fixtures, or start-up, etc.).
- .4 Costs for subcontract work shall be listed without any additional mark-up of Contractor's costs for overhead, profit, or supervision.
- .5 If payment for stored materials is requested prior to installation, then material and labor shall be listed as separate line items.
- .6 Contractor shall provide a report of actual versus projected reimbursable expenses (general conditions), updated monthly.

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§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under

Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage.

§ 9.3.1.1 Contractor agrees that, for purposes of Texas Government Code Sections 2251.021 and 2251.042, receipt of the Application for Payment by the Architect shall not be construed as receipt of an invoice by the Owner. Contractor further agrees that Owner's receipt of the Certificate for Payment shall be construed as receipt of an invoice by the Owner, for purposes of Texas Government Code Sections 2251.021 and 2251.042.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor has not been invoiced by a Subcontractor or supplier, unless Contractor has self-performed the Work.

§ 9.3.1.3 Until Final Completion of the Work, the Owner shall withhold retainage as provided in the Contract Documents, except that Owner shall not pay amounts for which the Architect refuses to certify payment, or the Owner refuses to pay, as provided herein in Section 9.4.3 or 9.5, as amended. The retainage shall be paid with the Final Payment. *(Note: if more than 5% is retained, under Texas law, then the retainage must be placed in an interest-bearing account, and the contractor must be paid the interest earned on the retainage upon completion of the Work. Texas Government Code Section 2252.032).*

§ 9.3.2 Payments will be made on the basis of invoices for specific materials or equipment incorporated in the Work and specific materials or equipment (1) suitably stored at the site or (2) suitably stored at some off-site location, provided the following conditions are met for off-site storage:

- .1 The location must be agreed to, in writing, by the Owner and Surety.
- .2 The location must be a bonded warehouse.
- .3 The Contractor's Surety must agree, in writing, to the amounts included in each Application for Payment.
- .4 The Contractor must bear the cost of the Owner's and Architect's expenses related to visiting the off-site storage area and reviewing the stored contents. Contractor acknowledges that Architect's time may be an Additional Service and shall compensate Architect directly for same upon request.
- .5 Payment shall not include any charges for overhead or profit on stored materials.
- .6 Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other documentation satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance (naming the Owner as insured and naming the specific materials or equipment stored and their location) and proof of delivery to the site for those materials and equipment stored off the site. Under no circumstances will the Owner reimburse the Contractor for down payments, deposits, or other advance payments for materials or equipment until the materials or equipment are delivered to Owner's site or the agreed-upon off-site storage. Failure to follow these procedures shall result in nonpayment for storage of or insurance on stored materials and equipment. Failure to follow these procedures shall also result in nonpayment of materials and equipment until said materials and equipment are incorporated into the Work.

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§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work. Neither Contractor nor any of its materialmen, laborers or Subcontractors shall have any lien rights against the Owner's lands, building funds, materials or other property. No materialmen, laborers or Subcontractors of the Contractor shall have any enforceable rights against the Owner on this Contract. Materialmen, laborers and Subcontractors of the Contractor may have rights under any Payment Bond provided by the Contractor, but cannot look to the Owner for any help in enforcement of those rights. CONTRACTOR

SHALL WAIVE, RELEASE, INDEMNIFY, AND HOLD OWNER HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTERESTS OR ENCUMBRANCES FILED BY THE CONTRACTOR, SUBCONTRACTORS, OR ANYONE CLAIMING BY, THROUGH, OR UNDER THE CONTRACTOR OR SUBCONTRACTOR FOR ITEMS COVERED BY PAYMENTS MADE BY THE OWNER TO CONTRACTOR.

§ 9.3.4 Contractor shall submit Applications for Payment electronically or, if requested by owner, in writing and in quadruplicate using AIA Documents G702 and G703 Application and Certificate of Payment (or G702CMa, if applicable) and Continuation Sheet. All blanks in the form must be completed and signatures of Contractor and Notary Public must be original on each form. Incomplete or inaccurate Applications for Payment shall be returned to the Contractor by the Architect for completion and/or correction. Owner shall have no responsibility for payment of same if the Application for Payment is incomplete or inaccurate.

§ 9.3.5 By signing each Application for Payment, the Contractor stipulates and certifies to the following: that the information presented is true, correct, accurate and complete; that the Contractor has made the necessary detailed examinations, audits, and arithmetic verifications; that the submitted Work has been completed to the extent represented in the Applications for Payment; that the materials and supplies identified in the Applications for Payment have been purchased, paid for, and received; that the subcontractors have been paid as identified in the Applications for Payment or that Contractor has been invoiced for same; that Contractor has made the necessary on-site inspections to confirm the accuracy of the Applications for Payment; that there are no known mechanics' or materialmen's liens outstanding at the date of the Application for Payment; that all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current Payment Application; that, except for such bills not paid but so included, there is no known basis for the filing of any mechanics' or materialmen's liens on the Work; that the Payment Application includes only Work self-performed by Contractor or for which Contractor has been invoiced; and that releases from all Subcontractors and materialmen have been obtained in such form as to constitute an effective release of lien under the laws of the State of Texas covering all Work performed and for which payment has been made by the Owner to the Contractor. Contractor understands that documents submitted to Owner become government documents under the laws of the State of Texas. Contractor further understands that falsification of Contractor's Application for Payment may constitute a violation of the penal laws of the State of Texas, including, but not limited to, Texas Penal Code Sections 32.46, 37.09, and 37.10, and may justify termination of Contractor's Contract with Owner. Contractor further understands and agrees that falsification of documents may entitle Owner to restitution as permitted by Texas law and these Contract Documents.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment carefully evaluate and review the Application for Payment and, when appropriate, return the Application for Payment to the Contractor as provided in Section 9.3.4. If the Application for Payment is complete, then the Architect shall sign and either (1) certify and issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) certify and issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing with a detailed statement of the Architect's reasons for withholding certification and disputing in part certification in accordance with Texas Government Code Section 2251.042(2)) and as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner in writing with a detailed statement of the Architect's reason for withholding certification in whole in accordance with Texas Government Code Section 2251.042(a) and as provided in Section 9.5.1.

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Architect's written reasons for withholding certification shall be construed as the notice required by Texas Government Code Section 2251.042 *et seq.* Owner may not withhold from payments more than 110% of the disputed amount. Owner shall provide certifications of payment for any of the Owner's separate consultants or contractors on Architect's prior written request.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, that the Architect has observed the progress of the Work and determined that, in the Architect's professional opinion, the Work has progressed to the point indicated, and the quality of the Work is in accordance with the Contract Documents. Further, the issuance of the Certificate for Payment will constitute a representation by the Architect to the Owner that the Architect has carefully evaluated and certified that the amounts requested in the Application for Payment are valid and correct. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor

deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect in writing to the Owner. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data unless requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum. Examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's accountants or other representatives of the Owner acting in the sole interest of the Owner.

§ 9.4.3 The issuance of a Certificate for Payment shall constitute a recommendation to the Owner regarding the amount to be paid. This recommendation is not binding on the Owner if Owner knows of other reasons under the Contract Documents why payment should be withheld.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 repeated failure to carry out the Work in accordance with the Contract Documents; or
- .8 failure to submit a written plan indicating action by the Contractor to regain the time schedule for completion of Work within the Contract time.

§ 9.5.2 When the Contractor disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, the Contractor may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

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§ 9.5.4 Notwithstanding any provision contained within this Article, if the Work has not attained Substantial Completion or Final Completion by the required dates, subject to extensions of time allowed under the Contract Documents, then Architect may withhold any further Certificate for Payment from Contractor to the extent necessary to preserve sufficient funds to complete the construction of the Project and to cover liquidated damages. The Owner shall not be deemed in default by reason of withholding payment as provided for in Sections 9.3.4, 9.4.3, 9.5.1, or this Section.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment for undisputed amounts in the manner and within the time provided in the Contract Documents, and shall so notify the Architect. Owner shall notify Contractor within 21 days if Owner disputes the Architect's Certificate for Payment pursuant to Texas Government Code Section 2251.042 *et seq.*, listing the specific reasons for nonpayment. Payments to the Contractor shall not be construed as releasing the Contractor or its Surety from any obligations under the Contract Documents.

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§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. In compliance with Texas Government Code Section 2251.022, the Contractor shall, within ten (10) days following receipt of payment from the Owner, pay all bills for labor and materials performed and furnished by others in connection with the Work, and shall, if requested, provide the Owner with evidence of such payment. Contractor shall include a provision in each of its subcontracts imposing the same payment obligations on its Subcontractors as are applicable to the Contractor hereunder, and if the Owner so requests, shall provide to the Owner copies of such Subcontractor payments. If the Contractor has failed to make payment promptly to the Contractor's Subcontractors or for materials or labor used in the Work for which the Owner has made payment to the Contractor, then the Owner shall be entitled to withhold payment to the Contractor in part or in whole to the extent necessary to protect the Owner. This Section is subject to the provisions of Texas Business and Commerce Code Chapter 56.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier. Any action taken by the Owner to require the Contractor to pay a Subcontractor shall not impose any liability on Owner to the Subcontractor or supplier.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision. Payments received by the Contractor from the Owner for Work properly performed by Subcontractors, or materials properly provided by suppliers, shall be held in trust by the Contractor for the benefit of those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor. Texas Property Code § 162.001.

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§ 9.6.8 The Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.6.9 Contractor shall not withhold as a retainage a greater percentage from Subcontractors or materialmen than the percentage that Owner withheld as retainage from payments to Contractor.

§ 9.7 Failure of Payment

§ 9.7.1 Pursuant to Texas Government Code Section 2251.051, if the Owner does not pay the Contractor any payment certified by the Architect, which is undisputed, due, and owing after the date the payment is due under the Contract Documents then the Contractor, upon ten (10) additional days' written notice to the Owner and Architect that payment has not been made and the Contractor intends to suspend performance for nonpayment, may stop the Work until

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payment of the undisputed amount owing has been received. If the Owner provides written notice to the Contractor that: 1) payment has been made; or 2) a bona fide dispute for payment exists, listing the specific reasons for nonpayment, then Contractor shall be liable for damages resulting from suspension of the Work. If a reason specified is that labor, services, or materials provided by the Contractor are not provided in compliance with the Contract Documents, then the Contractor shall be provided a reasonable opportunity to cure the noncompliance or to compensate Owner for any failure to cure the noncompliance. No amount shall be added to the Contract Sum as a result of a dispute between Owner and Contractor unless and until such dispute is resolved in Contractor's favor.

§ 9.7.2 If the Architect does not issue a Certificate for Payment within seven days after receipt of the Contractor's Application for Payment, through no fault of the Contractor, then the Contractor shall provide written notice to the Owner, and the Owner shall have fourteen (14) business days after receipt of such notice to provide or obtain a Certificate for Payment. If Owner fails to provide or obtain the Certificate for Payment, then the Contractor may, upon fourteen (14) additional business days' written notice to the Owner and Architect, stop the Work until payment of the undisputed amount owing has been received.

§ 9.7.3 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, then such payment shall be made promptly upon demand by the Owner. Notwithstanding anything contained in the Contract Documents to the contrary, if the Contractor fails to promptly make any payment due to Owner, pursuant to the Contract, or if the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, then the Owner shall have an absolute right to offset such amount against the Contract Sum and, in the Owner's sole discretion and without waiving any other remedies, may elect either to:

- .1 deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due to Contractor from the Owner, or
- .2 issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use; all Project systems included in the Work or designated portion thereof have been successfully tested and are fully operational; all required governmental inspections and certifications required of the Work have been made, approved and posted; designated initial instruction of Owner's personnel in the operation of Project systems has been completed; and all the required finishes set out in the Construction Documents are in place. The only remaining Work shall be minor in nature so that the Owner can occupy the Work or the applicable portion of the Work for all of its intended purposes on that date; and the completion of the Work by the Contractor will not materially interfere with or hamper Owner's normal school operations or other intended use. As a further condition of a determination of Substantial Completion, the Contractor shall certify that all remaining Work shall be completed within 30 days. Contractor shall complete Owner's or the State's Substantial Completion Certificate. The payment certification shall state the date of Substantial Completion, the punch list provided by the Contractor to address all remaining areas of the Project, and all known Owner-accepted non-conforming work. Required certifications of work requested or required by the Owner shall be limited to work required under the Contract Documents.

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§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, then the Architect shall so notify the Contractor and Owner in writing, and the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion. Except with the consent of the Owner, the Architect shall perform no more than five inspections to determine whether the Work or

a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner shall be entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare, sign and issue Owner's Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Final Completion of the Work or designated portion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when agreed to by the Owner and the Contractor in writing, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided that the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work resulting from such occupancy, use or installation, and property and liability insurance. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect. Contractor agrees that the Owner may place and install as much equipment and furnishings as is possible before completion or partial completion of portions of the Work.

§ 9.9.2 Immediately prior to such partial occupancy, use, or installation, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon in writing, partial occupancy or use of a portion or portions of the Work or installation of furnishings and equipment shall not constitute acceptance of Work not complying with the requirements of the Contract Documents, nor shall it constitute evidence of Substantial Completion or Final Completion.

§ 9.9.4 In the event that Owner takes partial occupancy or installs furnishings and equipment prior to Substantial Completion of the Project, Contractor shall obtain an endorsement to Contractor's Builder's Risk Policy to provide extended coverage for partial occupancy if Contractor's Builder's Risk Coverage required by Article 11 would not otherwise provide such coverage.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly prepare, sign, and issue Owner's Certificate of Final Completion and a final Certificate for Payment certifying to the Owner that on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance, including all retainages, found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. Final payments shall be made by the Owner in accordance with Owner's regular schedule for payments.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) using AIA Document G706, an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) evidence satisfactory to Owner that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the

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period required by the Contract Documents, (4) using AIA Document G707, consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) except for amounts previously withheld by the Owner, other data establishing payment or satisfaction of obligations, such as AIA Document G706A, notarized subcontractor's lien releases, receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees. In addition, the following items must be completed and received by the Owner before Final Payment will be due:

- .1 Written certifications required by Sections 10.5, 10.6, and 10.7;
- .2 Final list of subcontractors (AIA Document G705);
- .3 Contractor's certification in Texas Education Agency's Certification of Project Compliance;
- .4 Contractor's warranties, organized as required elsewhere in the Contract Documents;
- .5 Maintenance and Instruction Manuals;
- .6 Owner's Final Completion Certificate; and
- .7 "As-constructed record drawings". At the completion of the Project, the Contractor shall submit one complete set of "as-constructed" record drawings, with all changes made during construction, including concealed mechanical, electrical, and plumbing items. The Contractor shall submit these as electronic, sepi, or other acceptable medium, in the discretion of the Owner. The "as-constructed" record drawings shall delete the seal of the Architect and/or the Engineer and any reference to those firms providing professional services to the Owner, except for historical or reference purposes.

Documents identified as affidavits must be notarized. All manuals will contain an index listing the information submitted. The index section will be divided and identified by tabbing each section as listed in the index. Upon request, the Architect will furnish the Contractor with blank copies of the forms listed above. Final payment shall be paid by the Owner to the Contractor within thirty (30) days after Owner's Board of Trustees has voted to accept the Work and approve Final Payment. Owner, Architect, Contractor, and prime subcontractors, if applicable, shall certify compliance with all applicable school facility standards required in 19 TAC Section 61.1040 subsections (d) and (g)-(k). 19 TAC Section 61.1040(f).

Per 19 TAC Section 61.1040(6)(f)(C), Contractor shall certify the following:

- (i) Process certifications. To ensure construction quality and performance of contract terms, the Contractor and prime subcontractors, if applicable, shall certify compliance that the Project has been built in conformance with the contract documents.
- (ii) Certifications related to construction quality standards under subsection (j) of 19 TAC Section 61.1040.

To ensure compliance with construction quality standards, the Contractor and prime subcontractors, if applicable, shall certify compliance at the completion of a capital improvement project that the Project has been built in conformance with the contract terms and performance standards specified by the Contract Documents for the Contractor and for any of its subcontractors or subconsultants of any tier, which shall include certification of compliance with any subsequent change order documents approved by the Owner and Architect.

Where a third-party code compliance officer is required by subsection (j) of 19 TAC Section 61.1040 to ensure that a third-party code compliance officer does not find any violations of the provisions of the required construction codes

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identified in subsection (j)(1) of 19 TAC Section 61.1040 that are not enforced by a state or local authority having jurisdiction, Owner shall require that a third-party code compliance officer issue a third-party certificate of occupancy. Where a local authority having jurisdiction enforces some of the required construction codes, a third-party code compliance officer shall not issue a third-party certificate of occupancy until either the local authority having jurisdiction has issued a certificate of occupancy or the local authority having jurisdiction indicates in writing to the third-party code compliance officer that the local authority having jurisdiction does not issue certificates of occupancy.

Certifications related to safety and security standards under subsection (k) of 19 TAC Section 61.1040. To provide a safe and secure environment, the Contractor and prime subcontractors, if applicable, shall certify compliance that the Project has been built in reasonable accordance with the safety and security directives provided by the school district and reflected in the Contract Documents prepared by the Architect.

Special provisions for a Construction Manager-Agent. For projects that use the construction manager agent contracting method established in Texas Government Code Chapter 2269, Subchapter E, the Construction Manager Agent and each construction prime contractor must provide certification in accordance with clause (i) of 19 TAC Section 61.1040, and each shall certify the scope of work for which they are contractually responsible.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, and it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall
(Paragraphs deleted)
not constitute a waiver of any Claims by the Owner.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously asserted pursuant to Article 15 and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract and shall conform to all provisions of the "Manual of Accident Prevention in Construction", published by the Associated General Contractors of America, Inc., latest edition, and the Contractor further agrees to fully comply with all safety standards required by the Occupational Safety and Health Administration ("OSHA") 29 USC Section 651 *et seq.*, and all amendments thereto. However, the Contractor's duties herein shall not relieve any Subcontractor or any other person or entity, including any person or entity required to comply with all applicable federal, state and local laws, rules, regulations, and ordinances, from the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. Contractor shall provide reasonable fall protection safeguards and provide approved fall protection safety equipment for use by all exposed Contractor employees.

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§ 10.1.1 Contractor's employees, agents, Subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, shall not perform any service for Owner while under the influence of any amount of alcohol or any illegal controlled substance; or use, possess, distribute, or sell alcoholic beverages while on Owner's premises. No person shall: use, possess, distribute, or sell illegal or nonprescribed controlled drugs or drug paraphernalia; misuse legitimate prescription or over-the-counter drugs; or act in contravention of warnings on medications while performing the Work or while on Owner's premises. Contractor's employees, agents, Subcontractors, or anyone directly or indirectly employed by any of them, shall not distribute or sell alcohol or drugs of any kind to Owner's students or staff, regardless of the location of the distribution or sale.

§ 10.1.2 Contractor will comply with all applicable federal, state, and local drug and alcohol-related laws and regulations (e.g., Department of Transportation regulations, Drug-Free Workplace Act). Contractor has adopted or will adopt its own policy to assure a drug-free and alcohol-free workplace while on Owner's premises or performing the Work. Contractor will remove any of its employees, agents, subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, from performing the Work any time there is suspicion of alcohol and/or drug use, possession, or impairment involving such person, and at any time an incident occurs where drug or alcohol use could have been a contributing factor. Owner has the right to require Contractor to remove any person from performing the Work any time cause exists to suspect alcohol or drug use. In such cases, the person so removed may only be considered for return to work after the Contractor certifies, as a result of a for-cause test, conducted immediately following removal, that said person was in compliance with this Contract. Contractor will not use any person to perform the Work who fails or refuses to take, or tests positive on, any for-cause alcohol or drug test.

§ 10.1.3 Owner has also banned the presence of all weapons on the Project site, whether or not the owner thereof has a permit for a weapon, and Contractor agrees that Contractor's representatives, employees, agents, and subcontractors will abide by same. Weapons may only be permitted in Owner's parking lots if weapons are locked in personal vehicles in Owner's parking lot.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work, school personnel, students, and other persons on Owner's premises, and other persons who may be affected thereby, including the installation of fencing between the Work site and any connecting or adjacent property of Owner, when required by Texas Education Code Section 22.08341;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as other buildings, and other contents, fencing, trees, shrubs, lawns, walks, athletic fields, facilities, and tracks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including installing fencing, posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards. The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any personal or real property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor.

§ 10.2.4 When use or storage of hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel and shall only conduct such activities after giving reasonable advance written notice of the presence or use of such materials, equipment, or methods to Owner and Architect. The storage of explosives on Owner's property is prohibited. The use of explosive materials on Owner's property is prohibited unless expressly approved in advance in writing by Owner and Architect.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

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§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 The Contractor shall do all things reasonably necessary to protect the Owner's premises and all persons from damage and injury when all or a portion of the Work is suspended for any reason.

§ 10.2.9 The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work which cause death, bodily injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious bodily injuries, or serious property damages are caused, then the accident shall be reported immediately by any means necessary to give actual notice to the Owner's representative and the Architect.

§ 10.2.10 Contractor's obligations under Section 10.2 as to each portion of the Project shall continue until Owner takes possession of and occupies that portion of the Project.

(Paragraphs deleted)

§ 10.2.11 Injury or Damage to Person or Property

If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter. Contractor understands and acknowledges that, under Texas law, Owner has sovereign and/or governmental immunity as to all torts except as to the Owner's permitted use or operation of Owner's motor vehicles, subject to any defenses under law.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify in writing the Owner and Architect of the condition. In the event the Contractor encounters polychlorinated biphenyl (PCB), and the specifications require the PCB's removal, the Contractor shall remove the PCB and store it in marked containers at the jobsite provided by the Owner. If PCBs are found which are leaking, then Contractor shall stop work on the affected fixture and shall contact Owner for removal and disposal of the leaking PCBs.

§ 10.3.2 Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contractor may be entitled to an equitable adjustment regarding the Date of Substantial Completion and/or Final Completion.

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§ 10.3.3 IF CONTRACTOR IMPORTS HAZARDOUS MATERIALS ONTO THE PROJECT SITE, THEN CONTRACTOR HEREBY INDEMNIFIES AND HOLDS HARMLESS THE OWNER, ITS CONSULTANTS, TRUSTEES, OFFICERS, AGENTS AND EMPLOYEES, AGAINST ANY CLAIMS ARISING OUT OF OR RELATED TO SUCH IMPORTATION, INCLUDING BUT NOT LIMITED TO COSTS AND EXPENSES THE

OWNER INCURS FOR REMEDIATION OF A MATERIAL OR SUBSTANCE THE CONTRACTOR BRINGS TO THE SITE, AS PROVIDED FOR IN SUBPARAGRAPH 3.18.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site.

§ 10.3.5 *[Intentionally deleted.]*

§ 10.3.6 *[Intentionally deleted.]*

§ 10.4 Emergencies

(Paragraph deleted)

§ 10.4.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss.

§ 10.4.2 The performance of the foregoing services by the Contractor shall not relieve the subcontractors of their responsibility for the safety of persons and property and for compliance with all federal, state and local statutes, rules, regulations and orders of any governmental authority applicable to the conduct of the Work.

§ 10.5 ASBESTOS OR ASBESTOS-CONTAINING MATERIALS

§ 10.5.1 Contractor shall submit to the Architect a written certification addressed to the Owner that all materials used in the construction of this Project contain less than 0.10% by weight of asbestos and for which it can be demonstrated that, under reasonably foreseeable job site conditions, will not release asbestos fibers in excess of 0.1 fibers per cubic centimeter. The written certification shall further state that, should asbestos fibers be found at this Project in concentrations greater than 0.1 fibers per cubic centimeter, then Contractor shall be responsible for determining which materials contain asbestos fibers and shall take all necessary corrective action to remove those materials from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor.

§ 10.5.2 Final Payment shall not be made until this written certification has been received.

§ 10.6 LEAD-FREE MATERIAL IN POTABLE WATER SYSTEM

§ 10.6.1 Prior to payment of retainage and final payment, the Contractor and each subcontractor involved with the potable water system shall furnish a written certification that the potable water system is "lead-free".

§ 10.6.2 The written certification shall further state that should lead be found in the potable water system built under this Project, then Contractor shall be responsible for determining which materials contain lead and shall take all necessary corrective action to remove lead from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor.

§ 10.7 HAZARDOUS MATERIALS CERTIFICATION

The Contractor shall provide written certification that no materials used in the Work contain lead or asbestos materials in them in excess of amounts allowed by federal, state or local standards, laws, codes, rules and regulations; the Federal Environmental Protection Agency (EPA) standards; and/or the Federal Occupational Safety and Health Administration (OSHA) standards, whichever is most restrictive. The Contractor shall provide this written certification as part of submittals under the Section in the Project Manual related to Contract Closeout.

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ARTICLE 11 INSURANCE AND BONDS

§ 11.0.1 No Work will be commenced, and no equipment or materials can be shipped, until all requirements of this Article have been satisfied, satisfactory evidence of insurance has been provided, and all insurance is in full force and effect. Contractor shall notify Owner and Architect in writing of any proposed nonconformity with these requirements, and shall notify Owner and Architect in writing of any insurance changes which occur during the terms required under the Contract Documents. Any deviation from these requirements can only be approved by Owner's Board of Trustees. Any nonconformity may be grounds for termination or modification of the Contract. To the extent that Contractor is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Contractor shall provide written notice to Owner's Board of Trustees. Said lack of

insurance may then be grounds for termination or modification of this Agreement.

§ 11.0.2 Satisfactory evidence of insurance required by this Article shall be provided to Owner and Architect not later than five business days after execution of the Contract by Owner. Satisfactory evidence shall include copies of all required insurance policies, declarations, and endorsements themselves. In addition, Contractor shall also provide a duly-executed ACORD Form 25 Certificate of Liability Insurance naming Owner as a certificate holder and additional insured (except as noted in Section 11.0.4) and attaching all endorsements required herein. The Contractor shall furnish Owner all insurance amendments, renewals, notices, cancellations, and additional endorsements, as they are provided to Contractor.

§ 11.0.3 All insurance required herein shall be obtained from a company licensed to do business in the State of Texas by the Texas Department of Insurance, and shall be underwritten by a company rated not less than "A-" X in A.M. Best's Key Rating Guide, Property-Casualty, according to the latest posted ratings available on A.M. Best's website, www.ambest.com, and that permits waivers of subrogation.

§ 11.0.4 All insurance required herein shall name the Owner, its officers, employees, representatives, or agents, as an additional insured, except Contractor's Worker's Compensation insurance.

§ 11.0.5 All insurance required herein shall, by endorsement, be primary and non-contributory insurance with respect to the Owner, its officers, employees, representatives, or agents. All insurance shall be written on an occurrence basis, if available, and shall contain a waiver of subrogation in favor of Owner as provided for in Section 11.3.

§ 11.0.6 Any failure of Contractor to comply with the reporting provisions of the policies shall not affect the coverage provided to the Owner, its officers, employees, representatives, or agents.

§ 11.0.7 All workers on the Project must be covered by the required insurance policies of the Contractor or a Subcontractor.

§ 11.0.8 Nothing contained in this Article shall limit or waive Contractor's legal or contractual responsibilities to Owner or others.

§ 11.1 OWNER CONTROLLED INSURANCE PROGRAM and Contractor's Bonds

§ 11.1.1 Owner has elected to implement an Owner Controlled Insurance Program ("OCIP") that will provide commercial general liability and excess liability insurance for all Enrolled Contractors (as defined in the OCIP Manual) providing direct labor to the Project. The OCIP is described in the OCIP Manual, which is incorporated herein in full as part of this Agreement. All terms and conditions of the OCIP Manual will apply during the term of the Agreement and for such period after the term of the Agreement as may otherwise be set forth in the OCIP Manual.

While the OCIP is intended to provide broad coverages and high limits for Enrolled Contractors, the OCIP is not intended to meet all the insurance needs of such Enrolled Contractors. In addition to any insurance provided by the Owner, Contractor, Enrolled Contractors and all other parties providing work, services or materials for the Project, including, but not limited to, Ineligible Contractors (as defined in the OCIP Manual) and Eligible Contractors (as defined in the OCIP Manual) not enrolled in the OCIP, will be responsible for providing certain insurance as specified in Exhibit A.

The OCIP Manual will recommend that Eligible Contractors discuss the OCIP with their insurance agents, brokers or consultants to assure that other proper coverages are maintained.

§ 11.1.2 [Intentionally deleted.]

§ 11.1.2.1 The Contractor shall furnish separate payment and performance bonds covering faithful performance of the Contract and payment of obligations arising thereunder, each bond to be in a total amount equal to 100% of the Contract Sum or Guaranteed Maximum Price, if the Project is a Construction Manager at Risk project, whichever is applicable. Provided, however, no limitation herein shall limit Contractor's liability under the Contract Documents. Except as provided below, such bond shall be furnished to Owner before any work begins and not later than five business days after execution of the Contract by Owner. (If the Guaranteed Maximum Price is not known at the time that a Construction Manager at Risk contract is awarded, then the sum of the payment and performance bonds must each be in an amount equal to the Project budget. The Construction Manager at Risk shall deliver the bonds not later

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than the tenth day after the date the Construction Manager at Risk executes the Contract, unless the Construction Manager at Risk furnished a bid bond or other financial security acceptable to the Owner to the District to ensure that the Construction Manager will furnish the required payment and performance bonds when the Guaranteed Maximum Price is established.) All bonds shall be issued by a surety company licensed, listed and authorized to issue bonds in the State of Texas by the Texas Department of Insurance, and shall fully comply with Texas Insurance Code Section 3503.001 *et seq.* and Texas Government Code Chapter 2253, or their successors. The surety company shall have a rating of not less than "A-" X according to the latest posted ratings on the A.M. Best website, www.ambest.com. The surety company shall provide, if requested, information on bonding capacity and other projects under coverage and shall provide proof to establish adequate financial capacity for this Project. Should the bond amount be in excess of ten percent (10%) of the surety company's capital and surplus, then the surety company issuing the bond shall certify that the surety company has acquired reinsurance, in a form and amount acceptable to the Owner, to reinsure the portion of the risk that exceeds ten percent (10%) of the surety company's capital and surplus with one or more reinsurers who are duly authorized and admitted to do business in Texas and that amount reinsured by a reinsurer does not exceed ten percent (10%) of the reinsurer's capital and surplus. Contractor shall immediately notify the Owner and Architect in writing if there is any change in: the rating; insolvency or receivership in any State; bankruptcy; right to do business in the State; or status of Contractor's sureties at any time until Final Completion.

§ 11.1.2.2 The Contractor shall deliver copies of the required bonds to the Owner and Architect not later than five business days after execution of the Contract by Owner. All bonds will be reviewed by the Architect for compliance with the Contract Documents. In the event that the Architect has any questions concerning the sufficiency of the bonds, the bonds will be referred to the Owner or the Owner's Representative with Architect's recommendation.

§ 11.1.2.3 All bonds shall be originals. The Contractor shall require the attorney-in-fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the power-of-attorney. The name, address, and telephone number of a contact person for the bonding company shall be provided.

§ 11.1.2.4 Bonds shall guarantee the faithful performance of all of the covenants, stipulations, and agreements of the Contract. Bonds shall be signed by an agent, resident in the State of Texas. If at any time during the continuance of the Contract, the Owner determines that the Contractor is unable to complete the Work in accordance with the Contract Documents, any of the Contractor's bonds become insufficient, the surety becomes insolvent, or the surety's rating drops below the required level, then the Owner shall have the right to require from the Contractor additional and sufficient sureties or other security acceptable to the Owner, which the Contractor shall furnish to the satisfaction of the Owner within ten (10) days after notice to do so. These contractual remedies are in addition to all remedies available by law. In default thereof, all payment or money due to the Contractor may be withheld until the Contractor provides additional surety or security.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor knows or should know of an impending or actual cancellation of any insurance required by the Contract Documents, the Contractor shall provide written notice to the Owner of such impending or actual cancellation. Upon receipt of written notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of written notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage. At least 30 calendar days prior to the date of expiration of any policy required by Section 11.1, Contractor shall provide Owner written notice of the impending expiration.

§ 11.2 **Contractor-Provided Insurance Coverages** For any and all Work under the Agreement, and until completion and final acceptance of the Work, the Contractor and each Subcontractor (of any tier) shall, at its own expense, obtain and maintain the following minimum coverages, written on a primary and noncontributory basis (Contractor has the right to increase these minimum coverages per Subcontract): Workers Compensation and Employer's Liability, Builder's Risk, Commercial Automobile Liability Insurance, Professional Liability Insurance, Crane Liability and

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Riggers Legal Liability, Cyber Liability Insurance, Unmanned Aircraft Liability Insurance, Tools and Equipment Floater Insurance, as applicable and as further explained in Exhibit A.

(Paragraphs deleted)

§ 11.2.3 *[Intentionally deleted.]*

§ 11.3 Waivers of Subrogation

§ 11.3.1 All insurance required herein shall contain a waiver of subrogation in favor of Owner on all claims arising out of the Project. The policies shall provide such waivers of subrogation. The Contractor shall require similar written waivers in favor of the Owner, from the subcontractors and sub-subcontractors. The policies of insurance purchased and maintained by Contractor pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation.

§ 11.3.2 The Owner, as fiduciary, shall have power to adjust and settle any loss arising out of the Work with insurers, regardless of the purchaser of the insurance policy. The Contractor upon receipt of proceeds shall, as a fiduciary, pay all subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements shall require subcontractors to make payment to their sub-subcontractors in similar manner. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor with the insurance proceeds upon issuance of a Notice to Proceed from the Owner.

§ 11.3.3 Partial occupancy or use shall not commence until the insurance company providing this insurance has consented in writing, by endorsement or otherwise. Owner and Contractor shall take reasonable steps to obtain such consent and shall take no action without written mutual consent that would cause cancellation, lapse, or reduction of this insurance.

(Paragraphs deleted)

§ 11.4 Loss of Use and Business Interruption Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor and Architect of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor and Architect shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor and/or the Architect do not object, the Owner shall settle the loss and the Contractor and Architect shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor and/or Architect timely object to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's or Owner's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect or Owner, be

uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or Work failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.1.1 The Owner may make emergency repairs to the Work or take such other measures necessary under the circumstances, if the Contractor does not respond within 24 hours of a written notice by Owner of defect or nonconforming Work. Contractor shall be responsible to Owner for this cost if the reason for the repairs is attributable to the Contractor. If payments then or thereafter due to the Contractor are not sufficient to cover such costs, then the Contractor shall pay the difference to the Owner on demand.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such written notice promptly after discovery of the condition. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of written notice from the Owner or Architect, the Owner may correct the Work as provided in 12.2.2.1.1. Nothing contained in this Section 12.2 is intended to limit or modify any obligations under the law or under the Contract Documents, including any warranty obligations, expressed or implied.

§ 12.2.2.1.1 If the Contractor fails to perform the corrective Work, then Owner may perform corrective Work, at Contractor's cost. If Owner performs corrective Work, then Owner may also remove nonconforming Work and store the salvageable materials or equipment at Contractor's expense. If the Contractor does not pay all costs incurred by Owner within ten (10) days after written notice, then Owner may, upon ten (10) additional days' written notice, sell the removed materials and equipment in accordance with Owner's policies, and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, then the Contractor shall pay the difference to the Owner.

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§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner, but only as to the corrected Work.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction by the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.2.6 Contractor shall replace, repair, or restore any parts of the Project or furniture, fixtures, equipment, or other items placed therein (whether by Owner or any other party) that are destroyed or damaged by any such parts of the Work that do not conform to the requirements of the Contract Documents or by defects in the Work.

§ 12.2.7 The provisions of this Section 12.2 apply to Work done by Subcontractors of the Contractor as well as Work done directly by employees of the Contractor. The provision for this Section 12.2.7 shall not apply to corrective work attributable solely to the acts or omissions of any separate contractor of Owner (unless Contractor is acting in such capacities). The cost to Contractor of performing any of its obligations under this Section 12.2.7 to the extent not covered by insurance shall be borne by Contractor.

§ 12.2.8 If, however, Owner and Contractor deem it inexpedient to require the correction of Work damaged or not done in accordance with the Contract Documents, then an equitable deduction from the Contract Sum shall be made by written agreement between Contractor and Owner. Until such settlement, Owner may withhold such sums as Owner deems just and reasonable from moneys, if any, due Contractor. The settlement shall not be unreasonably delayed by the Owner and the amount of money withheld shall be based on estimated actual cost of the correction to Owner.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the laws of State of Texas, and any litigation shall be conducted in state district court. Mandatory and exclusive venue for any disputes shall be in the county in which the Project is located.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract, in whole or in part, without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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§ 13.2.2 The invalidity of any part or provision of the Contract Documents shall not impair or affect in any manner whatsoever the validity, enforceability, or effect of the remainder of the Contract Documents.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner or Architect shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made at appropriate times as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of

public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals which shall be included in the Cost of the Work. Provided, however, per Texas Government Code Chapter 2269, Owner shall bear all costs of construction materials engineering, testing and inspection services, and the verification testing services necessary for acceptance of the facility by the Owner. The Contractor shall give the Architect timely written notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Owner shall provide or contract for such additional testing, inspection, or approval. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense. Architect, Owner and Contractor shall cooperate for the timely scheduling of such tests and inspections.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including, but not limited to, those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect, with a copy to the Owner.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Undisputed payments overdue and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate as provided by Texas Government Code Section 2251.025. Any such payment shall be deemed overdue on the thirty-first day after Owner received Architect's invoice or Contractor's completed Application for Payment for the Architect, whichever is later, if Owner's Board of Trustees meets more than once per month. Any such payment shall be deemed overdue on the forty-sixth day after Owner receives Architect's invoice or Contractor's Certificate for Payment from the Architect, if Owner's Board of Trustees meets once a month or less frequently. No interest shall be due on sums properly retained by Owner, except as provided by law, or on disputed sums unpaid by Owner.

§ 13.6 EQUAL OPPORTUNITY IN EMPLOYMENT

§ 13.6.1 The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, disability, sex, or national origin, or any class otherwise protected by District policy or law. The Contractor agrees to post in conspicuous places, available to employees and applicants, notices setting forth the Contractor's nondiscrimination policies.

§ 13.6.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, age, disability, sex, national origin, or any class otherwise protected by District policy or law.

§ 13.7 RECORDS

§ 13.7.1 Contractor shall at all times through the date of Final Completion, maintain Job Records, including, but not limited to, invoices, Construction Documents, payment records, payroll records, daily reports, diaries, logs, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, other financial data and job meeting minutes applicable to the Project, in a manner which maintains the integrity of the documents. Job Records must be retained by Contractor for at least twelve (12) years after the date of Final Completion of the Project. Within 10 days of Owner's request, Contractor shall make such Job Records available for inspection, copying and auditing by the Owner, Architect or their respective representatives, at Owner's central office.

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§ 13.7.2 If Contractor is a Construction Manager at Risk, then Contractor shall also maintain, in accordance with the provisions of Section 13.7.1, the following: subcontract files, including proposals of successful and unsuccessful bidders, bid recaps and subcontractor payments; original estimates; estimating work sheets; general ledger entries detailing cash and trade discounts received; insurance rebates and dividends; and any other supporting evidence deemed necessary by the Owner to substantiate charges related to the Contract.

§ 13.7.3 Contractor shall keep a full and detailed financial accounting system and shall exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control systems shall be satisfactory to the Owner and shall be subject to the provisions of Section 13.7.1.

§ 13.7.4 Contractor shall keep all Contract Documents related to the Project, subject to the provisions of Section 13.7.1, provided, however, Contractor shall not destroy said documents until Contractor has confirmed with Owner in writing that Owner has obtained a copy of all as-built drawings.

§ 13.7.5 In the event that an audit by the Owner reveals any errors/overpayments by the Owner, then the Contractor shall refund to the Owner the full amount of such overpayments within thirty (30) days of such audit findings, or the Owner, at its option, reserves the right to deduct such amounts owed to the Owner from any payments due to the Contractor.

§ 13.8 PROPRIETARY INTERESTS AND CONFIDENTIAL INFORMATION

§ 13.8.1 Neither Architect nor Contractor shall use the image or likeness of Owner's Project or Owner's official logo or emblem and any other trademark, service mark, or copyrighted or otherwise protected information of Owner, without Owner's prior written consent. Contractor and Architect shall not have any authority to advertise or claim that Owner endorses Architect or Contractor's services, without Owner's prior written consent.

§ 13.8.2 Neither Architect nor Contractor shall disclose any confidential information of Owner which comes into the possession of Architect or Contractor at any time during the Project, including but not limited to: pending real estate purchases, exchange, lease, or value; information related to litigation; the location and deployment of security devices; security access codes; student likenesses; student record information; employee information; or any other information deemed confidential by law.

§ 13.8.3 The parties acknowledge that, as a public entity in the State of Texas, Owner is subject to, and must comply with, the provisions of the Texas Public Information Act, Texas Government Code Section 552.001, *et seq.*, and the Texas Open Meetings Act, Texas Government Code, Section 551.001, *et seq.*

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of ninety (90) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped; or
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment of undisputed sums due on an approved Certificate for Payment within the time stated in the Contract Documents.

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§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, then, after the applicable time period the Contractor may, upon ten (10) days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination.

§ 14.1.4 If the Work is stopped for a period of 90 (ninety) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon twenty (20) additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or Suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or Suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents;
- .5 fails to furnish the Owner, upon written request, with assurances satisfactory to the Owner, evidencing the Contractor's ability to complete the Work in compliance with all the requirements of the Contract Documents;
- .6 engages in serious or repeated worker misconduct in violation of Article 3.3.2;
- .7 engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies; or
- .8 fails to proceed continuously and diligently with the construction and completion of the Work, except as permitted under the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and subject to any prior rights of the surety, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

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§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished. Any further payment shall be limited to amounts earned to the date of termination.

§ 14.2.4 If the costs of finishing the Work, including compensation for the Architects' services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, exceed the unpaid balance of the Contract Sum or Guaranteed Maximum Price, (if the Project is a Construction Manager at Risk project), then the Contractor and/or its Surety shall pay the difference to the Owner. The amount to be paid to the Owner shall be certified by Architect upon application. The obligation for payment shall survive termination of the Contract.

§ 14.2.5 The parties hereby agree that: 1) if an order for relief is entered on behalf of the Contractor, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Contractor makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the

benefit of its creditors; or 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Contractor's performance of the Contract Documents. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Contractor or its successor in interest adequate assurance of future performance in accordance with the terms and conditions of the Contract Documents. Failure to comply with such request within ten (10) days of delivery of the request shall entitle Owner to terminate the Contract and to the accompanying rights set forth in Subparagraphs 14.2.1 through 14.2.6. In all events, pending receipt of adequate assurance of performance and actual performance in accordance with the Contract Documents, Owner shall be entitled to proceed with the Work with Owner's own forces or with other Contractors on a time and material or other appropriate basis, the cost of which will be charged against the Contract Sum.

§ 14.2.6 As required by Texas Government Code Chapter 2253, if a Performance Bond has been furnished and the Contractor is declared by the Owner to be in default under the Contract, then the Surety shall promptly perform the Work, in full accordance with the plans, specifications and Contract Documents. Unless otherwise agreed in writing between the Surety and the Owner, the Surety shall complete the Work by the Surety entering into a Contract acceptable to Owner, with a Contractor acceptable to Owner, and shall obtain new Payment and Performance Bonds as required by law.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum, Guaranteed Maximum Price, and Contract Time may be adjusted, by mutual written agreement, for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Furthermore, if this Contract is a multi-year contract funded through Owner's current general funds that are not bond funds, then the Owner's Board of Trustees has the right to not appropriate adequate monies for the next fiscal year and to terminate this Contract at the end of each fiscal year during the term of the Contract, without the Owner incurring any further liability to Contractor as a result of such termination.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

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§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination. Such payment shall not cause the Contract Sum, or Guaranteed Maximum Price, if the Project is a Construction Manager at Risk Project, to be exceeded. Such payment shall not include overhead and profit for Work not executed.

§ 14.4.4 Upon determination by a Court of competent jurisdiction that termination of the Contractor pursuant to Section 14.2 was wrongful, such termination will be deemed converted to a termination for convenience pursuant to Section 14.4, and Contractor's remedy for wrongful termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Section 14.4.

ARTICLE 15 CLAIMS AND DISPUTES OF CONTRACTOR § 15.1 Claims

(Paragraph deleted)

Init.

§ 15.1.1 Definition

A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of additional compensation under the Contract Documents, interpretation of the Contract Document terms, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

(Paragraphs deleted)

§ 15.1.2 Time Limits on Litigation

The Owner and Contractor shall commence all litigation whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the dispute resolution method selected in the Agreement and within the period specified by applicable law, but in the case of the Owner, not more than 8 years after the date of Final Completion of the Work, unless extended in accordance with Texas Civil Practice and Remedies Code Section 16.009. The Owner and Contractor waive all causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by the Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the Owner and to the Architect. Claims by Contractor under this Section 15.1.3.1 must be initiated within 21 calendar days after occurrence of the event giving rise to such Claim or within 21 calendar days after the Contractor first knew or should have known the condition giving rise to the Claim, whichever is earlier. Claims must be initiated by written notice titled "Notice of Claim" ("Notice") and sent to the Architect and Owner’s designated representatives. The Notice shall clearly set out the specific matter of complaint, and the impact which may occur or have occurred as a result thereof, to the extent that the impact can be assessed at the time of the Notice. If the impact cannot be assessed as of the date of the Notice, then the Notice shall be amended at the earliest date that is reasonably possible. It is imperative that Owner receive timely specific Notice of any potential problem identified by Contractor in order that the problem can be mitigated or resolved promptly. Claims not filed as required by this Section shall be waived.

§ 15.1.3.2 Claims by the Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7, as amended, and Article 14, as amended, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make undisputed payments for Work performed in accordance with the Contract Documents.

§ 15.1.4.2 *[Intentionally deleted.]*

§ 15.1.5 Claims for Additional Cost or An Increase in the Contract Sum or Guaranteed Maximum Price

If the Contractor wishes to make a Claim for additional cost or an increase in the Contract Sum or Guaranteed Maximum Price, written notice as provided in Section 15.1.3 shall be given to Owner and Architect. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. The Architect will promptly investigate such Claim and report findings and a recommended resolution in writing to the Owner and Contractor. If the Claim is approved by Owner’s Board of Trustees, or Owner’s representative if provided for herein, then Contractor shall proceed with the execution of the Work that is the subject matter of the Claim. If the Claim is rejected by the Owner, then Contractor may pursue alternative dispute resolution as provided for in the Contract Documents.

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§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor’s Claim shall include an estimate of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably

anticipated, and prevented the execution of major items of work on normal working days. "Adverse weather conditions" means unusually severe weather which is beyond the normal weather recorded and expected for the locality and/or the season or seasons of the year. The Contractor shall anticipate and include in the construction schedule rain days due to adverse weather conditions. A rain day is defined as a day when rainfall exceeds one-half (.5) inch during a 24-hour period.

§ 15.1.6.3 Time extensions may be granted for rain days in any month when the cumulative number of rain days during that month exceeds the number scheduled, provided that the rainfall prevented the execution of major items of work on normal working days. No day will be counted as a rain day when substantial Contractor forces are able to perform Work on the Project for more than fifty percent (50%) of the usual workday or when the stage of the Work on the Project is not adversely impacted. The number of rain days shown in the above schedule for the first and last months of the Contract will be prorated in determining the total number of rain days expected during the period of the Contract. No delays or extensions shall be granted for mud conditions.

§ 15.1.6.4 No extension of time shall be made to the Contractor because of hindrances or delays from any cause which is the fault of Contractor or Contractor's Subcontractors or under Contractor's control. Claims for extension of time may only be considered because of delays caused by adverse weather conditions, or because of hindrances or delays which are the fault of Owner and/or under Owner's control, but only to the extent that Substantial Completion of the Project is adjusted beyond the original Substantial Completion date. Only claims for extension of time shall be considered because of hindrances or delays not the fault of either Contractor or Owner, but only to the extent that Substantial Completion of the Project exceeds the Substantial Completion date established for the Work. Board approval shall be required for any extension of time. No damages shall be paid for delays. Contractor shall only be entitled to time extensions per the terms of the Contract Documents.

§ 15.1.6.5 Requests for time extension shall be submitted on a monthly basis and shall specify the time delay, the cause of the delay, and the responsible party for the delay, whether Contractor, Owner, rain day, or other. No claims for damages for delay shall be made by Contractor. Any claim not submitted under the terms of this Section shall be waived.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor waives all Claims against Owner for consequential damages arising out of or relating to this *(Paragraphs deleted)* Contract, including, but not limited to, any amount owed as compensation for the increased cost to perform the Work as a direct result of Owner-caused delays or acceleration.

Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Resolution of Claims and Disputes

§ 15.2.1 Claims by the Contractor against the Owner, including those alleging an error or omission by the Architect, shall be referred initially to the Architect for written recommendation. An initial recommendation by the Architect shall be required as a condition precedent to mediation or litigation of all Claims by the Contractor arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Architect with no recommendation having been rendered by the Architect.

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§ 15.2.2 The Architect shall review Claims and within ten days of the receipt of the Claim take one of the following actions: (1) request additional supporting data from the Contractor, or (2) make a written recommendation to the Owner, with a copy to the Contractor.

§ 15.2.3 In evaluating Claims, Architect may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in making a written recommendation.

§ 15.2.4 If the Architect requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Architect when the response or supporting data will be furnished, or (3) advise the

Architect that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Architect will either reject or approve the Claim in whole or in part.

§ 15.2.5 Following receipt of the Architect's written recommendation regarding a Claim, the Owner and Contractor shall attempt to reach agreement as to any adjustment to the Contract Sum or Guaranteed Maximum Price and/or Contract Time. If no agreement can be reached, then either party may request mediation of the dispute pursuant to Section 15.3.

§ 15.2.6 Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.6.1 [Intentionally deleted.]

§ 15.2.7 [Intentionally deleted.]

§ 15.2.8 [Intentionally deleted.]

§ 15.3 Alternative Dispute Resolution

§ 15.3.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived under the terms of the Contract Documents, shall, after written recommendation by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation at the request of either party. Owner and Contractor expressly agree that mediation shall be a condition precedent to the initiation of any litigation arising out of such Claims. Claims for injunctive relief shall not be subject to this Section.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation. Requests for mediation shall be filed in writing with the other party to the Contract. Mediation shall be subject to and in accordance with Chapter 154 of the Texas Civil Practice & Remedies Code. Mediation shall be conducted by a mutually-agreed-upon mediator. In the event that the parties are unable to agree on a mediator, then the parties shall jointly request the appointment of a neutral mediator by a District Judge in the county in which the Project is located.

§ 15.3.3 The parties shall share the mediator's fee equally and, if any filing fee is required, shall share said fee equally. Mediation shall be held within the county where the Owner's main administrative office is located, unless another location is mutually agreed upon by the parties. Agreements reached in mediation shall be reduced to writing, considered for approval by the Owner's Board of Trustees, signed by the parties if approved by the Board of Trustees, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

§ 15.3.4 Any claim not resolved in mediation shall be subject to litigation pursuant to Section 13.1.

§ 15.4 No Arbitration

§ 15.4.1 Notwithstanding anything to the contrary in the Contract Documents or in any document forming a part hereof, there shall be NO mandatory arbitration for any dispute arising hereunder.

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

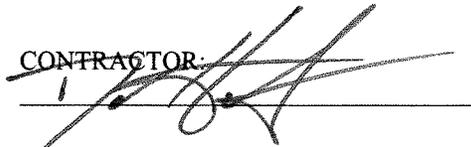
§ 15.6 In any adjudication under this Agreement, reasonable and necessary attorneys' fees may be awarded to the prevailing party.

EXECUTED this 24th day of March, 2026.

OWNER:

Dr. Keeley Boyer

CONTRACTOR:



init.

Title: Superintendent
Ector County Independent School District

By: Daniel Horton
Title: President

(Paragraphs deleted)

Init.

User Notes:

(1463963969)



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Anthony Sorola, Associate Superintendent of Operations

SUBJECT: DISCUSSION OF AND REQUEST FOR APPROVAL OF CANCELLATION OF RFQ# 26-09 ROOFING PROJECTS CONSTRUCTION MANAGER AT RISK

DATE: March 24, 2026

Through consultation with Gallagher Construction and legal counsel for Bond 2023 roofing projects, the administration recommends that the Board of Trustees cancel RFQ # 26-09 Roofing Projects Construction Manager at Risk. Cancellation will allow the District to rebid the process as a CMAR RFP under Government Code 2269 and will allow the District to bundle roofing projects for maximum market efficiency. The Board of Trustees previously authorized the CMAR bid process for these roofing projects.

A CMAR RFP recommendation will be brought to the Board of Trustees for approval at a future date.

Administrative Recommendation:

The administration requests that the Board approve the cancellation of RFQ # 26-09 Roofing Projects Construction Manager at Risk.



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Anthony Sorola, Associate Superintendent of Operations

SUBJECT: DISCUSSION OF AND REQUEST FOR APPROVAL TO DELEGATE AUTHORITY TO THE SUPERINTENDENT TO NEGOTIATE AND EXECUTE AN INDIVIDUAL JOB ORDER FOR THE BOND 2023 PRIORITY 1 & 2 CONSTRUCTION WITH THE LISTED GENERAL CONTRACTOR AT THE SPECIFIED COST

DATE: March 24, 2026

Pursuant to Texas Government Code Section 2269.053(a) and Board Policy CV (LEGAL), the administration recommends that the Board of Trustees hereby delegate to the Superintendent the authority to negotiate the terms of, and execute, a work order under the Job Order Contracts (AIA Document A121 Master Agreement Between Owner and Contractor) previously approved by the Board, for the cost of construction as being approved by the Board. The Board of Trustees also delegates to the Superintendent the authority to approve changes to the scope of work where such changes are within the Owner’s contingency, and which do not exceed 10 percent of the estimated cost of work. Any such change shall be confirmed in writing between the Contractor and the Superintendent, and notice of such approved changes shall be given to the Board at its next regular meeting. The job order is as follows:

- Bond 2023 Priority 1 & 2 job order at Hays ES for Amstar, Inc. with an estimated cost of \$2,000,000.

Administrative Recommendation:

That the Board of Trustees hereby delegates to the Superintendent the authority to negotiate the terms of, and execute, the job order or work order for Hays ES. The Board of Trustees also delegates to the Superintendent the authority to approve changes to the work where such changes are within the Owner’s contingency, and which do not exceed 10 percent of the cost of work.

Exalander Magallan

Executive Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcounttyisd.org



RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Hays Elementary School

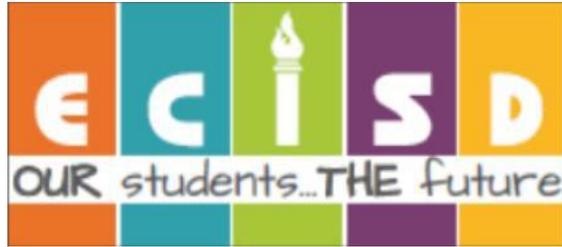
- **Purpose:** Amstar, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Hays Elementary School:
 - Fire & Life Safety
 - ADA Compliance
 - Electrical Distribution/Gear
 - Waterproofing/sealant
 - HVAC Mechanical
 - Plumbing- Sanitary Sewer
 - Plumbing- Domestic Water

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:** \$2,000,000
- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Amstar, Inc.

Board Approval

Date



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Anthony Sorola, Associate Superintendent – District Operations

SUBJECT: DISCUSSION OF, AND REQUEST FOR APPROVAL, TO REVISE THE ESTIMATED COST FOR INDIVIDUAL JOB ORDERS UNDER THE APPROVED JOB ORDER CONTRACTS FOR BOND 2023 PRIORITY 1 & 2 CONSTRUCTION

DATE: March 24, 2026

In November 2025, the Board of Trustees delegated to the Superintendent the authority to negotiate the terms of, and execute, multiple job orders or work orders under the Job Order Contracts (AIA Document A121 Master Agreement Between Owner and Contractor) previously approved by the Board, for the cost of construction. The Board of Trustees also delegated to the Superintendent the authority to approve changes to the scope of work where such changes are within the Owner's contingency, and which do not exceed 10 percent of the estimated cost of work. Job order quotes have been received from contractors for several of these projects, and the quotes exceed the threshold of 10 percent of the estimated cost of work. Therefore, the administration is bringing to the Board of Trustees the recommendation to approve revisions to the estimated cost for individual job orders for Bond 2023 Priority 1 and 2 construction projects. The revisions to job orders are for the following:

- Bond 2023 Priority 1 & 2 job order at Sam Houston ES for Amstar, Inc.

- Bond 2023 Priority 1 & 2 job order at the Alternative Education Center, Crockett MS, and Food Service for Lopez & Sons, Inc.
- Bond 2023 Priority 1 & 2 job order at Cameron ES for LMC Construction
- Bond 2023 Priority 1 & 2 job order at Gonzales ES for Teinert Construction
- Bond 2023 Priority 1 & 2 job order at Nimitz MS for LMC Construction
- Bond 2023 Priority 1 & 2 job order at New Tech Odessa for WR Construction
- Bond 2023 Priority 1 & 2 job order at Permian High School for Teinert Construction
- Bond 2023 Priority 1 & 2 job order at Goliad ES for Lopez & Sons, Inc.
- Bond 2023 Priority 1 & 2 job order at Bonham MS for Henthorn Commercial Construction
- Bond 2023 Priority 1 & 2 job order at Wilson & Young MS for Amstar, Inc.
- Bond 2023 Priority 1 & 2 job order at Austin ES for Henthorn Commercial Construction

Administrative Recommendation:

That the Board of Trustees hereby approve the revisions to the estimated cost for individual job orders for Bond 2023 Priority 1 and 2 construction projects.

Exalander Magallan

Director of District Operations

(432) 456-9659

802 N. Sam Houston

Odessa, TX 79761

Exalander.Magallan@ectorcountysd.org



RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Austin Elementary- Summer 2025

- **Purpose:** Henthorn is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Austin Elementary School:
 - o Waterproofing Sealant
 - o Fire & Life Safety
 - o Plumbing - Domestic Water

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:**

Previously Approved	\$81,112.95
Increase Required	\$106,924.74
Total Cost	\$188,037.69

- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - o Henthorn

Board Approval

Date

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Exalander Magallan

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RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Bonham Middle School

- **Purpose:** Henthorn is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Bonham Middle School:
 - o Fire & Life Safety
 - o ADA Compliance
 - o Electrical Distribution/Gear
 - o Waterproofing/sealant
 - o HVAC Mechanical
 - o Plumbing- Sanitary Sewer
 - o Plumbing- Domestic Water

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:**

Previously Approved	\$2,056,574.97
Increase Required	\$1,000,000
New Total Amount	\$3,056,574.97

- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - o Henthorn

Board Approval

Date

Exalander Magallan

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RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 at Cameron Elementary.

- **Purpose:** LMC is the general contractor that will be completing the following priority 1 and 2 renovation tasks:
 - o Wall Repair - Exterior
 - o Waterproofing
 - o ADA Compliance
 - o Plumbing - Domestic Water
 - o Plumbing - Sanitary Sewer

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:**

Previously Approved	\$ 952,893.45
Increase Required	\$602,794.36
Total Cost:	\$1,555,687.81

- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - o LMC Construction

Board Approval

Date

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RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Goliad Elementary School

- **Purpose:** Lopez & Sons is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Goliad Elementary School:
 - o Fire & Life Safety
 - o ADA Compliance
 - o Electrical Distribution/Gear
 - o Waterproofing/sealant
 - o HVAC Mechanical
 - o Plumbing- Sanitary Sewer
 - o Plumbing- Domestic Water

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:**

Previously Approved	\$1,794,141.45
Increase Required	\$1,000,000
New Total Amount	\$2,794,141,45

- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - o Lopez & Sons

Board Approval

Date

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RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Gonzales Elementary School

- **Purpose:** Teinert Construction is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Gonzales Elementary School:
 - o Fire & Life Safety
 - o ADA Compliance
 - o Electrical Distribution/Gear
 - o Waterproofing/sealant
 - o HVAC Mechanical
 - o Plumbing- Sanitary Sewer
 - o Plumbing- Domestic Water

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:** \$1,670,000
- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - o Teinert Construction

Board Approval

Date

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RFP #24-31 – Increase PO - Job Order Contracting Services for General Construction – Job Packages for 25-26:

- Alternative Education Center (AEC)
- Crockett Middle School
- Food Service
- **Purpose:** Accurate pricing with built-in contingency has been obtained since we prepared our JOC projects, so we are needing an increase of \$789,410 to successfully complete the scopes of work defined for AEC, Crockett, and Food Services. Lopez & Sons is the general contractor that will be completing the following priority 1 and 2 renovation tasks at schools listed above:
 - HVAC- Mechanical
 - Electrical Distribution/Electrical Gear
 - ADA Compliance
 - Waterproofing
 - Plumbing- Sanitary Sewer
 - Plumbing- Domestic
- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.
- **Original Costs: \$ 741,750.00**
- **Increase Costs: \$789,410**
- **Total Costs: \$1,531,160**
- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Lopez & Sons, Inc.

Board Approval

Date

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RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – New Tech Odessa

- **Purpose:** WR Construction is the general contractor that will be completing the following priority 1 and 2 renovation tasks at New Tech Odessa:
 - Fire & Life Safety
 - ADA Compliance
 - Electrical Distribution/Gear
 - Waterproofing/sealant
 - HVAC Mechanical

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:**

Previously Approved	\$1,400,398.70
Increase Required	\$1,000,000
New Total Amount	\$2,400,398.70

- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - WR Construction

Board Approval

Date

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RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Nimitz Middle School

- **Purpose:** LMC is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Nimitz Middle School:
 - o Fire & Life Safety
 - o ADA Compliance
 - o Electrical Distribution/Gear
 - o Waterproofing/sealant
 - o HVAC Mechanical
 - o Plumbing - Domestic Water
 - o Plumbing - Sanitary Sewer

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:**

Previously Approved	\$2,420,346.29
Increase Required	\$1,000,000
New Total Amount	\$3,420,346.29

- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - o LMC

Board Approval

Date

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RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Permian High School

- **Purpose:** Teinert is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Permian High School:
 - o Fire & Life Safety
 - o ADA Compliance
 - o Electrical Distribution/Gear
 - o Waterproofing/sealant
 - o HVAC Mechanical
 - o Plumbing - Fixtures
 - o Plumbing - Domestic Water
 - o Plumbing - Sanitary Sewer

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:**

Previously Approved	\$2,000,000
Increase Required	\$1,000,000
Total Cost	\$3,000,000

- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - o Teinert

Exalander Magallan

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Board Approval

Date



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RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 at Sam Houston Elementary.

- **Purpose:** Amstar, Inc. is the general contractor that will be completing the following priority 1 and 2 renovation tasks:
 - o Waterproofing
 - o Electrical Distribution
 - o ADA Compliance
 - o HVAC- Mechanical
 - o Plumbing - Domestic Water
 - o Plumbing - Sanitary Sewer

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:**

Previously Approved	\$ 1,683,486.73
Increase Required	\$225,497.23
Total Cost	\$1,908,983.96

- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - o Amstar, Inc.

Board Approval

Date

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RFP #24-31 – Job Order Contracting Services for General Construction – Job Packages for 25-26 – Wilson & Young Middle School

- **Purpose:** Amstar, Inc is the general contractor that will be completing the following priority 1 and 2 renovation tasks at Wilson & Young Middle School:
 - Fire & Life Safety
 - ADA Compliance
 - Electrical Distribution/Gear
 - Waterproofing/sealant
 - HVAC Mechanical
 - Plumbing - Domestic Water
 - Plumbing - Sanitary Sewer

- **Background Info:** As part of the ECISD 2023 Bond Package, the district has a number of priority 1 and 2 renovation tasks that must be completed. The district has a pool of contractors approved to be assigned these tasks for each campus.

- **Cost:**

Previously Approved	\$4,344,128.45
Increase Required	\$1,500,000
New Total Amount	\$5,844,128.45

- **Funding Source:** 693/Bond Funds
- **Recommended Supplier/Service Provider:**
 - Amstar, Inc

Board Approval

Date



Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Albessa Chavez, Chief Financial Officer

**SUBJECT: DISCUSSION OF AND REQUEST FOR APPROVAL OF PURCHASES
OVER \$100,000**

DATE: March 24, 2026

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

Administrative Recommendation:
Approval of Purchases over \$100,000

ECISD
 Request for purchases over \$100,000
 March 2026

Item	Vendor(s)	Estimated Contract Price	Funding	Requestor/ Department	Reference	Service/ Product	Service/Product Summary	Contract Term
1R	All Aboard America! (Industrial Bus Lines, Inc.) Embark Coach Line Freedom Charters and Tours, LLC Skyway Charters LLC Star Shuttle LLC	Previously Approved \$600,000 Increase Required \$130,000 New Total Amount \$730,000	General Funds 199	Exalander Magallan District Operations	ECISD Awarded RFP 25-29	Charter Bus Services	Charter Bus Services for student travel for athletic, band, music, and other extracurricular activities that the ECISD Transportation Department cannot meet.	FY 2025-2026

Exalander Magallan

Executive Director of District Operations
(432) 456.9659
802 N. Sam Houston



RFP #25-29 - Charter Bus Services

- **Purpose:** The Transportation Department is seeking charter bus services for the 2025-2026 fiscal year (July 1 through June 30, the initial term), with the option to renew for up to four years (4) years. Renewals of the contract may be made in one (1) year intervals with the year immediately following the initial term being the First Renewal Term, not to exceed a total of five years (5) years, including the initial term, at the sole discretion of ECISD.
- **Background Info:** The Ector County Independent School District (ECISD) is seeking Charter Bus Services for student travel for athletic, band, music, and other extracurricular activities that the ECISD Transportation Department cannot meet. This was a request for a proposal to establish vendors and competitive pricing for Charter Bus Transportation Services for ECISD, which will allow for the legal and safe transportation of ECISD students of all grade levels and staff.
- **Cost:** Previously approved \$600,000
 Increase Requested \$130,000
 New Total Amount \$730,000
- **Funding Source:** 199 General Fund
- **Recommended Supplier/Service Provider:** Ector County ISD (ECISD) is awarding NONEXCLUSIVE to the following:
 - All Aboard America! (Industrial Bus Lines, Inc.)
 - Embark Coach Line
 - Freedom Charters and Tours, LLC
 - Skyway Charters LLC
 - Star Shuttle LLC
- Service Providers will be used on an as needed basis throughout the district to provide services to students and staff. This award will not be a guarantee of purchase for any goods or services.

Board Approval

Date

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Ector County Independent School District

Action Page

TO: Board of Trustees

FROM: Albessa Chavez, Chief Financial Officer

SUBJECT: DISCUSSION OF AND REQUEST FOR APPROVAL OF 2025-2026 BUDGET AMENDMENT # 6

DATE: March 24, 2026

A summary of the recommended Budget Amendment # 6 for the 2025-2026 budget will be provided under separate cover.

Please be advised, these are changes in estimated budgeted funds, to fund items as noted.

Administrative Recommendation:

Approval of 2025-2026 Budget Amendment # 6.



ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
 AMENDED BUDGET - FUNCTION AND OBJECT
 GENERAL, SCHOOL NUTRITION, AND DEBT SERVICE FUNDS
 FOR THE PERIOD JULY 1, 2025 THRU JUNE 30, 2026
 FISCAL YEAR 2025-2026

	GENERAL FUND				SCHOOL NUTRITION FUND				DEBT SERVICE FUND			
	ORIGINAL BUDGET 7/1/2025	ADJUSTED BUDGET 02/28/2026	Additions (Deductions) #6	AMENDED BUDGET 03/31/2026	ORIGINAL BUDGET 7/1/2025	ADJUSTED BUDGET 2/28/2026	Additions (Deductions) #6	AMENDED BUDGET 3/31/2026	ORIGINAL BUDGET 7/1/2025	ADJUSTED BUDGET 2/28/2026	Additions (Deductions) #6	AMENDED BUDGET 3/31/2026
	REVENUES											
5700 Local and Intermediate	\$ 149,148,691	\$ 150,881,414	\$ 28,157	\$ 150,909,571	\$ 1,154,150	\$ 1,154,150	\$ -	\$ 1,154,150	\$ 48,949,768	\$ 48,949,768	\$ -	\$ 48,949,768
5800 State	218,411,309	217,378,672	-	217,378,672	440,000	440,000	-	440,000	-	-	-	-
5900 Federal	2,000,000	2,000,000	-	2,000,000	20,223,478	20,223,478	-	20,223,478	-	-	-	-
Total - All Revenues	\$ 369,560,000	\$ 370,260,086	\$ 28,157	\$ 370,288,243	\$ 21,817,628	\$ 21,817,628	\$ -	\$ 21,817,628	\$ 48,949,768	\$ 48,949,768	\$ -	\$ 48,949,768
APPROPRIATIONS by FUNCTION												
11 Instruction	\$ 211,629,923	\$ 213,095,002	\$ 28,157	\$ 213,123,159	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
12 Instructional Resources and Media Services	2,020,954	1,927,403	-	1,927,403	-	-	-	-	-	-	-	-
13 Curriculum and Staff Development	9,347,135	9,087,384	-	9,087,384	-	-	-	-	-	-	-	-
21 Instructional Leadership	5,662,506	5,578,154	-	5,578,154	-	-	-	-	-	-	-	-
23 School Leadership	21,728,046	22,221,209	-	22,221,209	-	-	-	-	-	-	-	-
31 Guidance, Counseling and Evaluation Services	17,546,309	18,037,618	-	18,037,618	-	-	-	-	-	-	-	-
32 Social Work Services	1,732,378	1,776,337	-	1,776,337	-	-	-	-	-	-	-	-
33 Health Services	3,257,259	3,354,669	-	3,354,669	-	-	-	-	-	-	-	-
34 Student Transportation	11,909,952	11,575,976	-	11,575,976	-	-	-	-	-	-	-	-
35 Food Services	-	-	-	-	21,827,628	22,378,085	-	22,378,085	-	-	-	-
36 Co/Extra Curricular Activities	8,113,940	9,310,427	-	9,310,427	-	-	-	-	-	-	-	-
41 General Administration	9,310,815	9,404,095	-	9,404,095	-	-	-	-	-	-	-	-
51 Plant Maintenance and Operations	39,715,583	41,428,419	-	41,428,419	-	-	-	-	-	-	-	-
52 Security and Monitoring Services	6,640,841	7,985,291	-	7,985,291	-	-	-	-	-	-	-	-
53 Data Processing Services	14,904,098	15,487,019	-	15,487,019	-	-	-	-	-	-	-	-
61 Community Services	1,500,512	1,662,114	-	1,662,114	-	-	-	-	-	-	-	-
71 Debt Services	1,359,000	1,359,000	-	1,359,000	-	-	-	-	48,949,768	48,949,768	-	48,949,768
81 Facilities Acquisition and Construction	4,431,749	5,342,655	-	5,342,655	-	-	-	-	-	-	-	-
99 Intergovernmental Charges	2,374,000	2,374,000	-	2,374,000	-	-	-	-	-	-	-	-
Total - All Appropriations	\$ 373,185,000	\$ 381,006,772	\$ 28,157	\$ 381,034,929	\$ 21,827,628	\$ 22,378,085	\$ -	\$ 22,378,085	\$ 48,949,768	\$ 48,949,768	\$ -	\$ 48,949,768
OTHER FINANCING SOURCES/(USES)												
7000 Other Financing Sources	\$ 150,000	\$ 150,000	\$ -	\$ 150,000	\$ 10,000	\$ 10,000	\$ -	\$ 10,000	\$ -	\$ -	\$ -	\$ -
8000 Other Financing (Uses)	(525,000)	-	-	-	-	-	-	-	-	-	-	-
Total Other Financing Sources (Uses)	\$ (375,000)	\$ 150,000	\$ -	\$ 150,000	\$ 10,000	\$ 10,000	\$ -	\$ 10,000	\$ -	\$ -	\$ -	\$ -
Excess (Deficiency) of Revenues and Other Financing Sources over Appropriations	\$ (4,000,000)	\$ (10,596,686)	\$ -	\$ (10,596,686)	\$ -	\$ (550,457)	\$ -	\$ (550,457)	\$ -	\$ -	\$ -	\$ -
Fund Balance Beginning July 1	\$ 130,362,497	\$ 130,362,497	\$ -	\$ 130,362,497	\$ 12,081,161	\$ 12,081,161	\$ -	\$ 12,081,161	\$ 40,604,971	\$ 40,604,971	\$ -	\$ 40,604,971
3000 Fund Balance Ending June 30 (Estimated)	\$ 126,362,497	\$ 119,765,811	\$ -	\$ 119,765,811	\$ 12,081,161	\$ 11,530,704	\$ -	\$ 11,530,704	\$ 40,604,971	\$ 40,604,971	\$ -	\$ 40,604,971
APPROPRIATIONS by OBJECT												
6100 Payroll Costs	\$ 285,002,089	\$ 287,833,158	\$ (29,552)	\$ 287,803,606	\$ 8,386,253	\$ 8,386,253	\$ -	\$ 8,386,253	\$ -	\$ -	\$ -	\$ -
6200 Purchased/Contracted Services	38,516,619	41,229,971	360,747	41,590,718	237,000	237,000	-	237,000	-	-	-	-
6300 Supplies and Materials	22,166,760	22,970,354	(315,064)	22,655,290	13,077,875	13,013,875	(150,000)	12,863,875	-	-	-	-
6400 Other Operating Expenses	14,457,794	14,046,988	21,180	14,068,168	56,500	70,500	-	70,500	-	-	-	-
6500 Debt Service	1,359,000	1,359,000	-	1,359,000	-	-	-	-	48,949,768	48,949,768	-	48,949,768
6600 Capital Outlay	11,682,738	13,567,301	(9,154)	13,558,147	70,000	670,457	150,000	820,457	-	-	-	-
Total - All Appropriations	\$ 373,185,000	\$ 381,006,772	\$ 28,157	\$ 381,034,929	\$ 21,827,628	\$ 22,378,085	\$ -	\$ 22,378,085	\$ 48,949,768	\$ 48,949,768	\$ -	\$ 48,949,768

Ector County ISD
 Finance Department
 Budget Amendment #6
 Requests to be Appropriated
 Fiscal Year 2025-2026



Description	Amount
GENERAL FUND	
The following will result in a decrease to fund balance.	
None	\$ -
	\$ -
The following will result in no change to fund balance.	
Milam PTA donation	\$ (28,157)
Playground shade and installation	\$ 28,157
	\$ -
The following will result in an increase to fund balance.	
None	\$ -
	\$ -
Net effect to fund balance	\$ -

SCHOOL NUTRITION FUNDS

The following will result in a decrease to fund balance.

None

\$ -

\$ -

The following will result in no change to fund balance.

None

\$ -

\$ -

The following will result in an increase to fund balance.

None

\$ -

\$ -

Net effect to fund balance

\$ -

DEBT SERVICE FUND

The following will result in a decrease to fund balance.

None

\$ -

\$ -

The following will result in no change to fund balance.

None

\$ -

\$ -

The following will result in an increase to fund balance.

None

\$ -

\$ -

Net effect to fund balance

\$ -



BOARD OF TRUSTEES

SUBJECT: Consent Agenda

PRESENTED BY: Dr. Keeley S. Boyer

BACKGROUND INFORMATION:

Ector County ISD adopted the use of the consent agenda as a means of expediting regular meetings. Consent agenda items consist of typical or routine matters in nature and typically have been discussed in a prior Board Work Study session. As such, the Board can consider all items included in the Consent Agenda with one motion. Should the Board choose to consider any item on the Consent Agenda separately, that item can be removed from the Consent Agenda, discussed, and voted on separately.

ADMINISTRATIVE RECOMMENDATION:

Approval of the Consent Agenda.



REQUEST FOR APPROVAL OF MINUTES OF MEETINGS

Attached you will find minutes of meetings of the Board of Trustees for:

February 10, 2026 – Board Workshop Meeting
February 17, 2026 – Regular Board Meeting

AT A BOARD WORKSHOP AND JOINT PUBLIC HEARING WITH DISTRICT CONTINUOUS IMPROVEMENT TEAM ON DISTRICT ANNUAL PERFORMANCE REPORT OF THE BOARD OF TRUSTEES OF ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT HELD ON FEBRUARY 10, 2026, BEGINNING AT 6:00 P.M. IN THE ADMINISTRATION BUILDING THIRD FLOOR CONFERENCE ROOM A/B, 802 NORTH SAM HOUSTON, ODESSA, ECTOR COUNTY, TEXAS, WITH THE FOLLOWING MEMBERS:

Present:

Delma Abalos
Dr. Steve Brown
Tammy Hawkins
Dawn Miller
Christopher Stanley
Robert Thayer
Wayne Woodall

Absent:

School Officials: Dr. Keeley Boyer, Mike Adkins, Albessa Chavez, Mauricio Marquez, Dr. Anthony Sorola, Dr. Matthew Spivy, Alicia Syverson, Lauren Tavarez, Dr. Robert Trejo

Others: Alex Reynolds, Naomi Fuentes, Alyssa Graft, Rita Crouch, Tiffany Tobar, Consuelo Soto, Cheryl Wilson, Melanie Sheehan, Clinton Gill, Brianne Baeza, Javier Ruiz, Ariel Klinke, Trei Mcleod, Emma Hernandez, Shona Lewis, Nory Leachon, Sandra Talavera, Rita Lopez, Mary Franco

27496 **Meeting Called to Order:** Tammy Hawkins, Board President, called the Board of Trustees Meeting to order at 6:00 p.m.

27497 **Verification of Compliance with Open Meeting Law:** Tammy Hawkins, Board President, verified that the provisions of Section 551.001 of the Texas Government Code have been met in connection with public notice of this meeting.

27498 **Opening Remarks by Superintendent:** In her opening remarks, Superintendent Dr. Keeley Boyer reminded everyone that there *is school this Monday*. It is no longer a holiday; it will now serve as a make-up day for the snow days taken two weeks ago.

27499 **Public Comment:** Individuals who wish to participate during the portion of the meeting designated for public comment shall sign up with the presiding officer or designee before the meeting begins as specified in the Board's procedures on public comment and shall indicate the agenda item on which they wish to address the Board. *BED(LOCAL)*

In public comment, Permian High School student Francisco Morales, spoke on religious freedom and his opposition to Senate Bill 11 (which the school board is discussing in Item 6-B below). He expressed concern that establishing a daily prayer period could cause some students to feel pressured to conform with beliefs they do not share, and that when, ¹⁸⁷where, and how to pray should be determined by individuals and families, not local public schools.

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February 10, 2026**

(Dawn Miller arrived at 6:18 p.m. and was presented for the remainder of the meeting.)

Public Hearing

- 27500** **Joint Public Hearing with District Continuous Improvement Team on District Annual Performance Report**: Trustees held a Joint Public Hearing with the District Continuous Improvement Team (DCIT) on the District Annual Performance Report. School districts are required to hold a public hearing to discuss this annual report which includes academic performance data, financial report, accreditation status, campus performance objectives, information on violent or criminal incidents, and performance in post-secondary institutions. Chief Academic Officer Dr. Robert Trejo presented the 2024-2025 District Annual Performance Report. The full report, including the Texas Academic Performance Report (TAPR) will be posted on the district website within two weeks, as required.

Immediately following the presentation, Board President Tammy Hawkins declared the Joint Public Hearing with District Continuous Improvement Team on District Annual Performance Report, ***open***.

There was no public comment.

Board President Tammy Hawkins declared the Joint Public Hearing with District Continuous Improvement Team on District Annual Performance Report, ***closed***.

No action required.

Report/Discussion Items

- 27501** **Discussion to Delay Teacher Certification Requirements Until the Beginning of the 2029-2030 School Year**: Chief Human Capital Officer Dr. Matthew Spivy presented this item for discussion. The state has re-emphasized its expectation that all teachers be certified; however, the Texas Education Code allows school districts to delay full implementation of teacher certification requirements until the 2029-2030 school year. ECISD currently has 263 uncertified core-content instructors and will rely heavily on its internal certification program, Odessa Pathway to Teaching, as well as the University of Texas Permian Basin's certification program, while continuing to inform teacher candidates about other available programs. There are five requirements to become a certified teacher in Texas: obtaining a bachelor's degree, completing an educator preparation program, passing certification exams, submitting a state application, and completing fingerprinting. ECISD is making a concerted effort to support new teachers in becoming certified by meeting with those who need certification, designing individualized certification plans, building study plans, hosting weekly sessions with candidates, and administering monthly certification practice tests.

No action required.

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27502 **Discussion of Statutory Resolution Regarding Establishing a Daily Prayer Period:** Superintendent Dr. Keeley Boyer and Chief of Schools Mauricio Marquez presented this item for discussion. Senate Bill 11, enacted during the most recent legislative session, authorizes school districts to establish a daily period for prayer and the reading of religious texts. The law requires school boards to formally vote on such a resolution no later than March 1, 2026. If a district chooses to adopt this daily period, it must apply uniformly to every campus each day; it may not replace instructional time; and participation is limited to staff and students who have submitted a signed consent form. Furthermore, prayer or the reading of religious texts may not occur within the physical presence or hearing distance of any individual who has not provided consent; the use of the PA system for this purpose is prohibited; and activities are restricted to classrooms or areas in which all individuals present have submitted consent forms. In regard to religious freedom practices, ECISD observes a daily moment of silence at every campus, has adopted policy GKG (Local) allowing chaplains as volunteers; and allows students to participate in voluntary events and organizations such as *See You at the Pole*, Fellowship of Christian Athletes, Fields of Faith, and First Priority. The Board of Trustees will conduct the required vote on February 17, 2026.

No action required.

27503 **Discussion of Community Advocacy Program:** Superintendent Dr. Keeley Boyer presented this item for discussion. The purpose of this program would be to increase understanding of school governance, finance, operations, and academics; strengthen trust, transparency, and shared ownership of district outcomes; and build informed community advocates. Membership would be representative of all seven school board districts, and could be parents, business leaders, civic leaders, or others interested in public education and considering future service with ECISD.

No action required.

27504 **Possible Request for Approval to Move to Closed Meeting – Personnel Matters – Section 551.074 of the Texas Government Code [Board will deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of public employees of the District, or hear a complaint or charge against an officer or employee.]; Consultations with Attorney – Section 551.071 of the Texas Open Meetings Act [The Board will meet in Closed Session in Consultation with the Board’s Attorney Regarding all Matters as Authorized by Law.]:**

There was no closed session.

27505 **Closing Remarks by Superintendent:** There were no closing remarks.

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February 10, 2026**

27506 **Adjournment:** Board President Tammy Hawkins adjourned the Board meeting at 7:34 p.m.

Board President
Tammy Hawkins

Board Secretary
Robert Thayer

AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT HELD ON FEBRUARY 17, 2026, BEGINNING AT 6:00 P.M. IN THE ADMINISTRATION BUILDING BOARD ROOM, 802 NORTH SAM HOUSTON, ODESSA, ECTOR COUNTY, TEXAS, WITH THE FOLLOWING MEMBERS:

Present:

Dr. Steve Brown
Tammy Hawkins
Dawn Miller
Christopher Stanley
Robert Thayer
Wayne Woodall

Absent:

Delma Abalos

School Officials: Dr. Keeley Boyer, Albessa Chavez, Mauricio Marquez, Dr. Anthony Sorola, Dr. Matthew Spivy, Alicia Syverson, Lauren Tavarez, Dr. Robert Trejo

Others: Alex Reynolds, Michael Hawley, Sam Magallan, Berta Saldibar, Stacey Nunez, Morgan Eaton, Ryan Merritt, Mark Gabrylczyk, Scott Rudes, Hector Limon, Carole Campbell, Juan Navarrete, Paulina Fowler, Martha Cirrincione, Cheryl Wilson, Claudia Lopez, Cara Shephard, Andrew Shephard, Laura Garcia, Javier Hernandez, Tracey Borchardt, Kristen Vesely, Nory Leachon, Rita Lopez, and Mary Franco

27507 **Meeting Called to Order:** Tammy Hawkins, Board President, called the Board of Trustees Meeting to order at 6:00 p.m.

27508 **Verification of Compliance with Open Meeting Law:** Tammy Hawkins, Board President, verified that the provisions of Section 551.001 of the Texas Government Code have been met in connection with public notice of this meeting.

27509 **Pledge of Allegiance to United States and Texas Flags:** The United States and Texas flag pledges were led by Goliad Elementary School Students Baylee Kamp and Gage Lowe.

27510 **Invocation:** The Invocation was led by Pastor Gary Douglas, Standing Stone Ministry.

27511 **Special Presentations:**

Introduction of Texas Music Educators Association All-State Musicians: Alicia Syverson, Associate Superintendent of Student & School Support presented this item. Ector County ISD is proud to introduce 8 students who have earned the prestigious title of Texas All-State Musician from the Texas Music Educators Association (TMEA). This honor follows a rigorous series of regional and area auditions that begin with more than 70,000 high school students and ends with only about 2% of those students being selected as All-State. They qualify to perform in one of 18 All-State ensembles in band, orchestra, and vocal divisions. To be an All-State Musician means that the individual – these students – are the best individually in the State of Texas. *It is an elite honor.*

Baylee Shephard, PHS Junior, Flute – PHS Band
Nicholas Giba, PHS Junior, Eb Clarinet – PHS Band
D’nae Honesto, PHS Junior, Trumpet – PHS Band
Javier Hernandez, PHS Senior, Oboe – PHS Band (New Tech Odessa)
Arielyn Espinoza, PHS Senior, Alto 2 – PHS Choir (Unable to attend)
Abigail Wells, PHS Senior, Soprano 1 – PHS Choir (Unable to attend)
Julian Baeza, PHS Senior, Bass 1 – PHS Choir (New Tech Odessa)
Fernanda Fierro, OHS Freshman, Soprano 2 – OHS Choir

27512 **Opening Remarks by Superintendent:** In opening remarks, Superintendent Dr. Keeley Boyer congratulated Reagan Elementary 5th grader Naithik Yankarla, who qualified for the Scripps National Spelling Bee in Washington, D.C., after winning the Regional Spelling Bee competition on Wednesday. In all, 20 students qualified for the Regional Spelling Bee, and all represented their individual schools very well.

27513 **Public Comment:** Individuals who wish to participate during the portion of the meeting designated for public comment shall sign up with the presiding officer or designee before the meeting begins as specified in the Board’s procedures on public comment and shall indicate the agenda item on which they wish to address the Board. *BED(LOCAL)*

There was no public comment.

Bond 2023

27514 **Bond 2023 Update:** Associate Superintendent of District Operations Dr. Anthony Sorola and Chief Financial Officer Albessa Chavez provided the Board of Trustees with an update on the progress of Bond 2023 projects. The presentation began with an overview of the ongoing construction projects, including the delivery methods being used for each and the contractor, architect, and consultant leading the work.

Career & Technical Education Center:

- Site Fill in progress
- Site Sewer System work is ongoing
- Foundation Excavation in progress
- Foundation Placement in progress
- Electrical work is ongoing
- Plumbing work is ongoing

Adela & Gilbert Vasquez Middle School:

- Site Utilities work is ongoing
- Mechanical, Electrical & Plumbing work is on-going
- Steel erection is complete 190
- Blockwork ongoing around Fine Arts area

- Interior finishes ongoing in Academics

Transition Learning Center:

- Building pad prep is ongoing
- Excavation of footings is ongoing

PHS Auditorium:

- Work has begun to extend stage
- New lighting fixtures have been installed
- Columns were added to the Drama Theater to account for extra weight in the ceiling
- Restroom & Changing rooms fixtures & cabinetry are forthcoming
- New exterior brickwork complete

PHS School JROTC Facility:

- Pre-engineered Metal Building (PEMB) has been erected
- Installation work is now ongoing
- Underground plumbing and sewage work is ongoing
- Electrical work has begun inside the building

Agricultural (Ag) Farm Facility:

- Retention pond excavation is continuing
- Framing for the first building is being completed before concrete is poured
- Ditches are being dug for plumbing in the second building

New Transportation Facility:

- ECISD has engaged Terracon for geotechnical services
- They will drill a series of holes at varying depths at locations provided by Parkhill to determine the engineering needs for the building based on the ground on-site
- A recommendation to the Board for the CMAR general contractor will be presented in tonight's meeting

Priority 1 & 2 Roofing Projects:

- Package 1: Roofing at Burleson, Fly Travis & Zavala Elementary
 - Substantially complete for package 1
 - Contractors will now work on finalizing items
- Package 2: Roofing at Noel, San Jacinto, Cameron, Crockett, and Ector
 - Planning is ongoing
 - No work has been assigned at this time

Priority 1 & 2 – Travis Elementary School:

- Terrazzo sections of flooring have been completed around the campus
- VCT flooring was completed the week of 2/9-2/13/2026
- Electrical Fountains have been installed and tested
- Final Inspection from the City of Odessa has been Passed
- Sidewalk and parking lot concrete will be evaluated to be repaired during Spring Break

Technology & Systems Upgrades:

- Phase One has been completed
 - This milestone reflects the successful installation and activation of upgraded surveillance systems across district campuses

- Phase Two is now in progress
 - This phase will see additional cameras installed at elementary schools focusing on the exterior wings. This will enhance the safety of students in outdoor areas of ECISD buildings and maintain a strong sense of security for the campuses
- Bond Project Update: PA, Bell, Alarm, and Clock Refresh
 - Fifteen campuses have now been completed with fully operational upgraded systems
 - The next campuses scheduled for installation are Hays and Jordan

Bond Financial Update:

- A little more than \$119 million has been spent
- \$164 million has been encumbered for specific projects and purposes
- More than \$190 million, or approximately 33% remains available

No action required.

27515 **Discussion of and Request for Bond 2023 Purchases over \$100,000:** Moved by Woodall, seconded by Thayer to approve the Bond Purchases over \$100,000 as presented. The two items on the list this month are \$775,345 for Priority 1 and Priority 2 renovations and \$545,000 for construction and renovations at the new Transportation Facility.

Motion unanimously approved.

27516 **Discussion of and Request for Approval of AIA Document G802-2017 Amendment to the Professional Services Agreement for Parkhill Architects – AG Farm Facility:** Moved by Stanley, seconded by Woodall to approve the AIA Document G802-2017 Amendment to the Professional Services Agreement for Parkhill Architects – AG Farm Facility as presented.

Motion unanimously approved.

27517 **Discussion of and Request for Approval of AIA Document G802-2017 Amendment to the Professional Services Agreement for Parkhill Architects – JROTC Facility:** Moved by Stanley, seconded by Woodall to approve the AIA Document G802-2017 Amendment to the Professional Services Agreement for Parkhill Architects – JROTC Facility as presented.

Motion unanimously approved.

Action Items

27518 **Discussion of and Request for Approval of Purchases over \$100,000:** Moved by Stanley, seconded by Woodall to approve the Purchases over \$100,000 as presented. The items on this month's list are \$7.6 million to upgrade wireless access points and switches across the district for reliable network connectivity, and \$1.45 million to replace and upgrade edge switches and routers so each campus has high-capacity connection to the core network.

Motion unanimously approved.

- 27519** **Discussion of and Request for Approval of 2025-2026 Budget Amendment #5** : Moved by Brown, seconded by Stanley to approve the 2025-2026 Budget Amendment #5 as presented.

Motion unanimously approved.

- 27520** **Discussion of and Request for Approval of Proposal for Facilities Condition Assessment, Long-Range Facilities Master Planning, Deferred Maintenance Planning, and Preventive Maintenance Strategy Development Agreement:** Moved by Stanley, seconded by Thayer to approve the Proposal for Facilities Condition Assessment, Long-Range Facilities Master Planning, Deferred Maintenance Planning, and Preventive Maintenance Strategy Development Agreement as presented.

Motion unanimously approved.

- 27521** **Discussion of and Request for Approval of an Easement for the City of Odessa:** Moved by Brown, seconded by Stanley to approve an Easement for the City of Odessa as presented. This easement will create a temporary road along the north and west sides of district-owned property near the corner of Faudree Road and Yukon Road. This temporary road will be used for semi-trailer traffic working on the new sports complex to avoid having them travel toward that intersection.

Motion unanimously approved.

- 27522** **Discussion of and Request for Approval to Delay Teacher Certification Requirement until Beginning of the 2029-2030 School Year:** Moved by Woodall, seconded by Thayer to approve to Delay Teacher Certification Requirement until Beginning of the 2029-2030 School Year as presented. The state has re-emphasized its expectation for all teachers to be certified; however, the Texas Education Code allows school districts to delay teacher certification requirements to be fully in place until the 2029-30 school year.

Motion unanimously approved.

- 27523** **Discussion of and Request for Approval of 2026-2027 Academic Calendars:** Moved by Brown, seconded by Stanley to approve the 2026-2027 Academic Calendars as presented. Our Academics & Accountability Division created three options for staff and parents to consider. In all, we received nearly 1,400 survey responses: parents preferred Option B for its later start date (August 18) and its Spring Break aligned with Midland ISD. However, more staff members preferred either Option A or Option C because the professional development days were spread out through the school year and not front-loaded in August. Taking those comments to heart, a new Option D was created for approval. The highlights:

- 4 days of professional development and one dedicated teacher workday before school starts with the rest spread throughout the year
- First day of school is August 11 and August 12
- Holidays and professional development days combined for extended weekends for families
- First semester ends on December 17, and the second semester begins on January 6
- aligned Spring Break
- Last day of the school year is May 27

The calendar for our two early college high schools was also presented and approved. Both calendars will be on our website soon.

Motion unanimously approved.

27524 **Discussion of, and Action on, Whether to Adopt a Statutory Resolution Regarding Establishing a Daily Prayer Period**: Moved by Stanley, seconded by Thayer to not adopt a Statutory Resolution Regarding Establishing a Daily Prayer Period in our schools as outlined in Senate Bill 11. Senate Bill 11, from the last legislative session, allows districts to authorize a daily period for prayer and reading of religious texts. The law also requires school boards to vote on such a resolution before March 1, 2026. If a district chooses to adopt this daily period it must: apply to every school every day; may not substitute for instructional time; participation is allowed only for staff and students who sign a consent form; prayer or reading of religious texts are not permitted in the physical presence of or within the hearing distance of any person who has not submitted a consent form; using the PA system is prohibited; and it is restricted to classrooms or areas where every single person present has a signed consent form. In regard to religious freedom practices, ECISD has a moment of silence in every school every day, adopted policy GKG (Local) allowing chaplains as volunteers; and allows students to participate in voluntary events and organizations like “See You at the Pole,” Fellowship of Christian Athletes, Fields of Faith, and First Priority.

Motion unanimously approved.

27525 **Consent Agenda**: Moved by Brown, seconded by Stanley to approve the Consent Agenda as presented.

- A. Request for Approval of Minutes of Meetings
- B. Request for Approval of Bills for Payment
- C. Request for Approval of Acceptance of Donations Over \$10,000
- D. Request for Approval of Quarterly Investment Report
- E. Request for Approval of Recommendations of Library Materials
- F. Request for Approval of Resolution to Designate Additional Nonbusiness Days Under Texas Public Information Act (TPIA) for Year 2026

Motion unanimously approved.

27526 **Possible Request for Approval to Move to Closed Meeting - Personnel Matters - Section 551.074 of the Texas Government Code [Board will deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of public employees of the District; or hear a complaint or charge against an officer or employee.]; (The Board of Trustees will deliberate the hiring of a Principal for Vasquez Middle School); and (Discussion of 2026-2027 ECISD Campus Principal Administrator Contracts.) Consultations with Attorney – Section 551.071 of the Texas Open Meetings Act [The Board will meet in Closed Session in Consultation with the Board’s Attorney Regarding all Matters as Authorized by Law.].**

Board President Tammy Hawkins convened to closed session at 6:58 p.m.

Board President Tammy Hawkins reconvened to open session at 7:12 p.m.

27527 **Request for Approval of the 2026-2027 ECISD Campus Principal Administrator Contracts:** Moved by Woodall, seconded by Thayer to approve the 2026-2027 ECISD Campus Principal Administrator Contracts as presented.

Motion unanimously approved.

27528 **Information Items:** The Board of Trustees were provided with the following information items: Financials, Purchases Over \$100,000 Informational Report, Routine Personnel Report and Added and Reclassification Memorandum February 2026.

27529 **Closing Remarks by Superintendent:** In closing remarks, Superintendent Dr. Keeley Boyer announced Raquel Rodriguez as the principal for Vasquez Middle School. Mrs. Rodriguez is completing her fourth year as the principal at Ross Elementary where she has been a Principal Incentive Allotment (for campus growth) recipient the past two years. She participated in the Holdsworth Campus Leadership Program in 2024-25. She began her career with ECISD in 2004 and has served as a special education teacher, instructional coach, assistant principal, and principal.

27530 **Adjournment:** Board President Tammy Hawkins adjourned the Board meeting at p.m. 7:13 p.m.

Board President
Tammy Hawkins

Board Secretary
Robert Thayer



REQUEST FOR APPROVAL OF BILLS FOR PAYMENT

Attached you will find a list of disbursements for the previous month for your approval.

TO: BOARD OF TRUSTEES
ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT

FROM: ACCOUNTS PAYABLE

RE: CHECK REGISTER

The following check amounts for the operations, materials and supplies for the maintenance of the School District are presented for your approval.

For the period 2/5/2026 to 3/4/2026

ANALYSIS RECAPITULATION	AMOUNT
Operating Fund:	\$ 26,107,216.38

**ECTOR COUNTY ISD
CHECK REGISTER
02/05/2026-03/04/2026**

DATE	PAYEE	AMOUNT
2/11	ALERT SERVICES INC	\$ 3,697.00
2/11	ALL ABOARD AMERICA!	56,308.98
2/11	AMERIPRIDE SERVICES INC.	561.01
2/11	ASCD	299.00
2/11	B-LINE FILTER & SUPPLY INC	512.88
2/11	BUCK'S WHEEL & EQUIPMENT COMPANY	1,490.19
2/11	CDW-G	927,647.89
2/11	COMPUDATA SOLUTIONS LLC	260.00
2/11	DIAMOND BUSINESS SERVICES INC	2,392.80
2/11	DUGAN'S BODY SHOP	13,838.15
2/11	HENRY SCHEIN INC	71.92
2/11	HENRY SCHEIN INC	3,822.23
2/11	INTERNATIONAL BACCALAUREATE ORGANIZATION	14,260.00
2/11	J W PEPPER & SON INC	1,913.07
2/11	LAKESHORE LEARNING MATERIALS	1,966.58
2/11	LOU'S CLINICAL LAB INC	1,783.00
2/11	MIDLAND SAFETY & HEALTH SALES	490.00
2/11	MSC INDUSTRIAL SUPPLY CO.	1,279.52
2/11	O'REILLY AUTO ENTERPRISES LLC	571.09
2/11	ORIENTAL TRADING COMPANY INC	97.57
2/11	POSITIVE PROMOTIONS	5,368.74
2/11	REGION IV EDUCATION SERVICE CENTER	60.00
2/11	REGION 13 EDUCATION SERVICE CENTER	125.00
2/11	RON TURLEY ASSOCIATES INC	12,634.34
2/11	SCHOLASTIC BOOK FAIRS	6,123.48
2/11	SCHOLASTIC BOOK FAIR INC.	4,643.54
2/11	SECURED DOCUMENT SHREDDING INC	606.61
2/11	SHERWIN WILLIAMS	579.60
2/11	TEXAS ART EDUCATION ASSOCIATION (TAEA)	459.00
2/11	TEXAS ASSOCIATION OF SCHOOL BUSINESS OFFICIALS	5,075.00
2/11	TRANE U.S. INC.	1,105.14
2/11	WEISSMAN'S DESIGN FOR DANCE	4,575.44
2/11	WEST MUSIC CO	1,721.91
2/11	BROADWAY MOTORS INC	285.00
2/11	NAPA AUTO PARTS	1,302.40
2/11	NAPA AUTO PARTS	27,451.14
2/11	NAPA AUTO PARTS	331.69

2/11	SPORTS IMPORTS INC.	1,443.15
2/11	STONE TOWER GRAFIX	7,444.25
2/11	ARAMARK UNIFORM & CAREER APPAREL GROUP INC.	1,411.81
2/11	BEST CHOICE RESTAURANTS LLC	224.05
2/11	BEST CHOICE RESTAURANTS LLC	322.30
2/11	WEST TEXAS FILTERS INC	8,822.52
2/11	BEST CHOICE COFFEE SERVICES LLC	85.92
2/11	SCHOOL SPECIALTY LLC	1,408.54
2/11	EDPUZZLE INC	2,250.00
2/11	HALO BRANDED SOLUTIONS INC	1,973.12
2/18	ALL ABOARD AMERICA!	3,736.30
2/18	AMERIPRIDE SERVICES INC.	561.01
2/18	BSN SPORTS, INC DBA US GAMES	1,088.97
2/18	BSN SPORTS INC	1,798.46
2/18	BUCK'S WHEEL & EQUIPMENT COMPANY	325.16
2/18	CENTERS FOR CHILDREN & FAMILIES	2,250.00
2/18	AUTOMATIC ICE MACHINE	955.75
2/18	HENRY SCHEIN INC	14,550.33
2/18	J W PEPPER & SON INC	1,405.92
2/18	MSC INDUSTRIAL SUPPLY CO.	1,272.72
2/18	O'REILLY AUTO ENTERPRISES LLC	1,752.63
2/18	SCHOLASTIC BOOK FAIRS	800.00
2/18	SECURED DOCUMENT SHREDDING INC	1,466.71
2/18	TEXAS ART EDUCATION ASSOCIATION (TAEA)	595.00
2/18	TEXAS ASSOCIATION OF SCHOOL BUSINESS OFFICIALS	2,625.00
2/18	TEXAS ELEMENTARY PRINCIPALS & SUPERVISORS ASSOC	389.00
2/18	THE BOSWORTH LTD	1,752.33
2/18	TRANE U.S. INC.	2,065.12
2/18	WEISSMAN'S DESIGN FOR DANCE	102.42
2/18	BROADWAY MOTORS INC	865.64
2/18	NAPA AUTO PARTS	323.40
2/18	NAPA AUTO PARTS	506.92
2/18	NATIONAL INSTITUTE FOR AUTOMOTIVE SERVICE	96.00
2/18	ARAMARK UNIFORM & CAREER APPAREL GROUP INC.	2,061.88
2/18	WEST TEXAS FILTERS INC	5,243.39
2/18	AVANT ASSESSMENT LLC	1,883.00
2/25	ALL ABOARD AMERICA!	17,199.02
2/25	ALL ABOUT HEARING	2,560.00
2/25	AMERIPRIDE SERVICES INC.	570.32
2/25	B-LINE FILTER & SUPPLY INC	9,722.56
2/25	BSN SPORTS INC	577.06
2/25	BUCK'S WHEEL & EQUIPMENT COMPANY	2,289.06

2/25	CDW-G	179,781.09
2/25	AUTOMATIC ICE MACHINE	902.25
2/25	DEMCO INC	535.35
2/25	DIAMOND BUSINESS SERVICES INC	668.00
2/25	HENRY SCHEIN INC	2,874.12
2/25	J W PEPPER & SON INC	1,036.70
2/25	LAKESHORE LEARNING MATERIALS	904.40
2/25	MIDLAND SAFETY & HEALTH SALES	155.00
2/25	MSC INDUSTRIAL SUPPLY CO.	76.05
2/25	O'REILLY AUTO ENTERPRISES LLC	652.20
2/25	PIONEER DRAMA SERVICE INC	366.50
2/25	SCHOLASTIC BOOK FAIRS	3,160.90
2/25	SECURED DOCUMENT SHREDDING INC	1,594.13
2/25	SHAR PRODUCTS CO	502.91
2/25	TEXAS ART EDUCATION ASSOCIATION (TAEA)	2,601.00
2/25	TEXAS ASSOCIATION OF SCHOOL BUSINESS OFFICIALS	220.00
2/25	TRANE U.S. INC.	690.74
2/25	WEISSMAN'S DESIGN FOR DANCE	2,330.97
2/25	WEST MUSIC CO	1,477.82
2/25	BROADWAY MOTORS INC	205.86
2/25	NAPA AUTO PARTS	64.53
2/25	NAPA AUTO PARTS	149.35
2/25	SELERIX SYSTEMS INC	9,308.00
2/25	ARAMARK UNIFORM & CAREER APPAREL GROUP INC.	2,344.86
2/25	JOSTENS INC	3,993.00
2/25	SOUTHERN TIRE MART LLC	779.84
2/25	WEST TEXAS FILTERS INC	13,613.17
2/25	BEST CHOICE COFFEE SERVICES LLC	249.83
2/25	BEST CHOICE COFFEE SERVICES LLC	861.63
2/25	SCHOOL SPECIALTY LLC	68.58
3/4	ALL ABOARD AMERICA!	33,374.11
3/4	AMERIPRIDE SERVICES INC.	561.01
3/4	BUCK'S WHEEL & EQUIPMENT COMPANY	332.53
3/4	CENTERS FOR CHILDREN & FAMILIES	2,250.00
3/4	AUTOMATIC ICE MACHINE	415.00
3/4	COMPUDATA SOLUTIONS LLC	216.98
3/4	DEMCO INC	546.97
3/4	ACCUTRAIN CORPORATION	802.00
3/4	DIAMOND BUSINESS SERVICES INC	428.17
3/4	FIRETROL PROTECTION SYSTEMS INC	1,370.00
3/4	FRANKLIN-COVEY CLIENT SALES, INC.	2,276.00
3/4	HENRY SCHEIN INC	339.20

3/4	INTERNATIONAL BACCALAUREATE ORGANIZATION	1,800.00
3/4	J W PEPPER & SON INC	23.10
3/4	LAWSON PRODUCTS INC	1,415.81
3/4	BAKER & PETSCHKE PUBLISHING LLC	690.00
3/4	MIDLAND SAFETY & HEALTH SALES	613.00
3/4	MSC INDUSTRIAL SUPPLY CO.	1,424.54
3/4	AIM MEDIA TEXAS OPERATING LLC	2,908.90
3/4	O'REILLY AUTO ENTERPRISES LLC	883.48
3/4	PERMA BOUND BOOKS	2,878.00
3/4	REGION IV SERVICE CENTER	60.00
3/4	SCHOLASTIC BOOK FAIRS	971.55
3/4	SCHOLASTIC INC	481.25
3/4	TEXAS ART EDUCATION ASSOCIATION (TAEA)	2,397.00
3/4	TEXAS ASSOCIATION OF SCHOOL	100.00
3/4	WEST MUSIC CO	856.89
3/4	BROADWAY MOTORS INC	141.00
3/4	NAPA AUTO PARTS	597.50
3/4	NAPA AUTO PARTS	123.19
3/4	TEXAS COUNCIL OF ADMINISTRATORS OF	99,500.00
3/4	ARAMARK UNIFORM & CAREER APPAREL GROUP INC.	1,439.44
3/4	SOUTHERN TIRE MART LLC	45.00
3/4	WEST TEXAS FILTERS INC	998.97
3/4	BEST CHOICE COFFEE SERVICES LLC	177.30
3/4	BEST CHOICE COFFEE SERVICES LLC	312.00
3/4	SCHOOL SPECIALTY LLC	5,116.64
2/11	GABRIEL KYLE MANALASTAS	297.11
2/11	9 SQUARE IN THE AIR LLC	1,075.06
2/11	A3 COMMUNICATIONS INC	198,419.24
2/11	AIR TUTORS LLC	1,620.00
2/11	ALBERT J VALENCIA	155.80
2/11	ALEXANDER P RIVAS	4,664.79
2/11	ALISA ANN SALAZAR MUSELLA-GONZALES	270.00
2/11	AMANDA PADILLA	35.88
2/11	AMANDA PARSONS	106.94
2/11	AMANDA VESELY	44.81
2/11	AMAZON CAPITAL SERVICES	50,770.11
2/11	AMAZON CAPITAL SERVICES	1,065.59
2/11	AMY PRICE	4.93
2/11	ANGELA AGUIRRE	58.50
2/11	ANGELA JOHNSON	38.28
2/11	ANNA SALINAS	23.71
2/11	ANNIE ARREDONDO	30.67

2/11	ARIANA FLORES	368.55
2/11	AT&T	132.66
2/11	ATHLETIC SUPPLY INC	2,696.40
2/11	AUDIO ACOUSTICS HEARING CENTERS	170.00
2/11	BIMBO BAKERIES USA	1,464.20
2/11	DICK BLICK COMPANY	1,161.78
2/11	BLUE STAR BUS SALES LTD	2,640.66
2/11	BLUE TRITON BRANDS, INC	55.80
2/11	BRAZOS DOOR & HARDWARE	6,090.00
2/11	BRITTANY SWAIM	81.56
2/11	CABLE ONE, INC.	2,922.00
2/11	CALPINE CORPORATION	67.62
2/11	CALPINE CORPORATION	112,045.82
2/11	CAREER AND TECHNICAL ASSOCIATION OF TEXAS	3,120.00
2/11	CELESTE POTTER	569.35
2/11	CHARLES OLIVIER	152.76
2/11	CHARLES OLIVIER	1,125.60
2/11	CHERYL HINESLY	16.31
2/11	CHRISTINA ACOSTA	120.00
2/11	CHRISTINA DUGAN	16.17
2/11	CHRISTINA LORRAINE BUTLER	213.00
2/11	CHRISTINA SIFUENTEZ	54.52
2/11	CHRISTY KENNEDY	117.60
2/11	CIRCLE P RANCH SUPPLY INC	83.98
2/11	CITY OF ODESSA WATER DEPT	96,861.47
2/11	CLINT STOWE	117.52
2/11	COCA-COLA SOUTHWEST BEVERAGES LLC	1,579.97
2/11	COMMUNITIES IN SCHOOLS OF THE PERMIAN BASIN INC	130,000.00
2/11	CONSUELO RODRIGUEZ	110.89
2/11	CRYSTAL KIDD	24.22
2/11	CRYSTAL RAYOS	20.88
2/11	CRYSTAL RAYOS	17.71
2/11	CULLIGAN WATER CONDITIONING OF WEST TEXAS	849.21
2/11	DANA SAFETY SUPPLY	64,136.55
2/11	DANIEL BUSTAMANTE	184.15
2/11	F&W PLASTICS LLC	10,990.00
2/11	DEBRA BYRD	626.26
2/11	C/O DELL USA L.P.	115.78
2/11	DIADEM SPORTS LLC	2,465.00
2/11	DOMTECH ELECTRICAL AND CONTROLS LLC	55,517.60
2/11	DORIANA WAUGH	46.11
2/11	DOS TERRA LIMITED LIABILITY COMPANY	7,999.00

2/11	EDBLOX INC	41,960.42
2/11	ELSA COCKER	1,060.00
2/11	ELUMA LLC	98,325.00
2/11	EMILY R CHASCO	66.70
2/11	FERGUSON FACILITIES SUPPLY	751.56
2/11	FIRST FINANCIAL ADMINISTRATORS	31,977.73
2/11	FIRST FINANCIAL ADMINISTRATORS	19,221.19
2/11	FOLLETT CONTENT SOLUTIONS LLC	892.47
2/11	FRANCESCA FLORANCE	37.70
2/11	FRED HOWARD	1,200.00
2/11	G H DAIRY	29,088.48
2/11	GALLAGHER CONSTRUCTION COMPANY LP	126,563.00
2/11	G & G INVESTMENTS INC	707.59
2/11	GARDENDALE WATER CO	740.50
2/11	GERARDO JIMENEZ	620.00
2/11	GOPHER SPORT	6,776.35
2/11	GRAINGER	4,702.79
2/11	GEORGE CROSS	1,078.20
2/11	HECTOR LIMON	262.00
2/11	HENTHORN COMMERCIAL CONSTRUCTION LLC	473,436.35
2/11	HOME DEPOT USA INC - STORE #562	2,834.23
2/11	HUMBERTO HERNANDEZ JR	6,194.02
2/11	IDALETH TAVAREZ	51.00
2/11	IMPERIAL BAG & PAPER COMPANY LLC	69,853.68
2/11	INDUSTRIAL COMMUNICATIONS	131.99
2/11	INES CORRAL	1,800.00
2/11	INNOVATIVE REHAB SYSTEMS	2,209.90
2/11	IXL LEARNING	550.00
2/11	JACKSON VINES	1,050.00
2/11	JACKSON VINES	940.00
2/11	JAIDEN ABILA	650.00
2/11	JENNIFER VALENCIA	1,106.71
2/11	JOSE ISACC CARILLO CONTRERAS	900.00
2/11	JOSE ISACC CARILLO CONTRERAS	700.00
2/11	JOSE RAPHAEL MASONSONG	104.97
2/11	JOSEPHINE CONTRERAS	34.08
2/11	JUANA GAYTAN	13.05
2/11	JUANA HERNANDEZ	34.51
2/11	JULIA CARRASCO	51.76
2/11	JULIA KELTON	94.54
2/11	JULIE SORUM	418.10
2/11	KELCY PENATE	62.64

2/11	KIMBERLY CARRASCO	44.24
2/11	KLEMENT DISTRIBUTION INC	4,983.10
2/11	KRISTI EICHER	436.59
2/11	LABATT FOOD SERVICE	58,003.67
2/11	LAKRISHA RODRIGUEZ	18.56
2/11	LANCE HARTMAN	250.00
2/11	LEASE SERVICING CENTER INC	23,334.60
2/11	LESLIE HANKINS	31.18
2/11	LETICIA FLORES	110.89
2/11	LINDSAY K JONAS	48.72
2/11	LONE STAR CHALLENGE COINS LLC	665.00
2/11	LONE STAR SIGNS OF WEST TEXAS, INC	2,351.25
2/11	LYNDSAY FREEMAN	60.32
2/11	MA HERNANDEZ REYES	15.52
2/11	MABEL GUTIERREZ	51.69
2/11	MAHIRA SALINAS	67.49
2/11	MANSFIELD OIL COMPANY OF GAINESVILLE, INC	32,748.36
2/11	MARGARET EDWARDS	16.75
2/11	MARIA ALEJANDRA CACERES MARTINEZ	73.59
2/11	MARIA DEL PILAR CHAPA	47.56
2/11	MARK JOSHUA G.STODOMINGO	328.86
2/11	MARY JANE HUTCHINS	238.00
2/11	MDX SAFETY TRAINING CONSULTING & SERVICE	1,500.00
2/11	MELANA MOSS	65.40
2/11	MELISSA O. AVILA	500.92
2/11	MICAYLA SERRATO	514.61
2/11	MID-TEX OF MIDLAND INC	53,437.00
2/11	MIREIDA F VELAZCO	36.98
2/11	MIRIAM NAVARRETE RAMIREZ	29.15
2/11	MIRIAM VALLECILLO	43.21
2/11	MITCH DAVIS	1,609.86
2/11	MONK HOLDINGS LLC	85.12
2/11	MSB SCHOOL SERVICES LLC	12.69
2/11	NATALIE GUARA	44.50
2/11	NATIONAL ASSOCIATION FOR GIFTED CHILDREN	669.00
2/11	NAYELI MARTINEZ	29.29
2/11	NAYELI OLIVAREZ	89.75
2/11	NCS PEARSON INC	562.40
2/11	NIDIA SORIANO	995.33
2/11	NIMBUS DRINKING WATER SYSTEMS LTD	99.00
2/11	NOHEMI YBARRA	31.97
2/11	ODESSA SIGN SOLUTION LLC	25.00

2/11	SEWCO INC	2,728.09
2/11	OLIVIA PORRAS	137.60
2/11	ARLETTE DIAZ	1,020.00
2/11	OTIS ELEVATOR COMPANY INC	5,587.29
2/11	PARKHILL, SMITH & COOPER, INC.	47,233.96
2/11	PARKHILL, SMITH & COOPER, INC.	62,958.73
2/11	PARKHILL, SMITH & COOPER, INC.	10,617.36
2/11	PARKHILL, SMITH & COOPER, INC.	6,112.27
2/11	PARTS TOWN, LLC	793.84
2/11	PATRICIA LOGAN	75.69
2/11	PAYTON HUNTER	345.38
2/11	PENSKE COMMERCIAL VEHICLES US LLC	1,423.81
2/11	PERLA QUINTANA	46.48
2/11	PERLA QUINTANA	84.75
2/11	SHANNON D GAYLOR	1,302.00
2/11	PERMIAN MOVERS, INC.	383.50
2/11	POCKET NURSE ENTERPRISES INC	1,580.95
2/11	PROGRESSIVE MICROTECHNOLOGY, INC.	595.00
2/11	QUIZIZZ INC	3,071.25
2/11	RACHEL GALVAN	54.74
2/11	RAUL SANCHEZ	400.00
2/11	RAY DOMINGUEZ	34.44
2/11	REBECCA ROMO	35.09
2/11	REBECCA TUCKER	668.10
2/11	RHONDA LONG	37.99
2/11	RICHARD VAN PELT	41.32
2/11	ROBERTS TRUCK CENTER OF TEXAS	2,811.63
2/11	ROCIO DAVILA	41.40
2/11	RODNEY CHARLES ROMAN	250.00
2/11	ROSS JOHN LARA	34.66
2/11	RUBEN GARCIA	72.50
2/11	RUBICON MOTOR COMPANY LLC	229.00
2/11	S.A. PIAZZA & ASSOC. INC	22,368.64
2/11	SAFEBUILT TEXAS LLC	13,785.00
2/11	SALLY POOL	161.16
2/11	SARAH RODRIQUEZ	32.05
2/11	SCOTT WALKER	237.22
2/11	JAMIE HOLLEY	406.50
2/11	SHANNA MOORE	78.00
2/11	SHELBYE HILL	565.00
2/11	SIRIA DUTCHOVER	49.30
2/11	SKILLSUSA TEXAS	2,530.00

2/11	SKILLSUSA TEXAS ASSOCIATION SECONDARY INC	681.00
2/11	SOLIANT HEALTH LLC	900.00
2/11	SONIA ROCHA	85.84
2/11	STANDARD STRUCTURES INC	554.73
2/11	STEMARCO DESIGN LLC	377.00
2/11	STEPHEN TROUB	200.00
2/11	STERICYCLE	1,706.98
2/11	SWEET PIZZA LLC	228.24
2/11	SWEETWATER MUSIC EDUCATION TECHNOLOGY	477.11
2/11	SYSCO USA, INC	6,333.44
2/11	TALL CITY AUTOMOTIVE LLC	377.32
2/11	TANYA GALINDO	120.00
2/11	ROBERT MADDEN INDUSTRIES LTD	1,146.00
2/11	TERESA MOLINAR	10.22
2/11	TEXAS ASSOCIATION FOR THE GIFTED & TALENTED	658.00
2/11	TASB, INC	90.00
2/11	TEXAS EXCAVATION SAFETY SYSTEM, INC.	11.50
2/11	TEXAS HIGH SCHOOL COACHES ASSOCIATION	1,000.00
2/11	THE CLAVIER GROUP INC	267,076.00
2/11	THOMAS GONZALES	271.87
2/11	TRISTAN CROWDER	92.86
2/11	TROPHY DEN	339.00
2/11	TYLER THOMPSON	400.00
2/11	TYLER THOMPSON	400.00
2/11	UIL MUSIC REGION 6	650.00
2/11	UNITED REFRIGERATION	304.91
2/11	UNIVERSITY OF TX-PERMIAN BASIN	41,142.83
2/11	VALERIA CONTRERAS	511.89
2/11	VALERIA RAMOS	120.00
2/11	VALERIE HELITON	98.78
2/11	VANCE WASHINGTON	940.00
2/11	VICTORIA NORENA	74.97
2/11	VICTORIA SMITH	880.00
2/11	VIKTORIA R HENDERSON	56.19
2/11	WADE MCCLINTOCK	400.00
2/11	RANCH SUPPLY OF ODESSA	34.90
2/11	WAWONA FROZEN FOODS	20,862.38
2/11	WEST TEXAS ASSOCIATION FOR PUPIL	80.00
2/11	WEST TEXAS EDUCATORS	2,878.00
2/11	ZAPOPAN BUSINESS GROUP LLC	2,611.35
2/11	YANIRA CASTILLO	15.59
2/11	ZULEMA PALOMINO	38.93

2/18	ACCELERATION ACADEMIES	48,972.00
2/18	AIRGAS USA LLC	7,113.30
2/18	AIRGAS USA LLC	664.89
2/18	ALBESSA CHAVEZ	727.54
2/18	ALBESSA CHAVEZ	485.00
2/18	ALICIA LIPPMAN	17.26
2/18	ALISA ANN SALAZAR MUSELLA-GONZALES	135.00
2/18	ALLEN TEINERT CONSTRUCTION	3,924,240.94
2/18	ALPHA FOODS CO.	42,474.60
2/18	ALYSSA DEUTSCH	210.17
2/18	AMAZON CAPITAL SERVICES	29,495.37
2/18	AMAZON CAPITAL SERVICES	11.95
2/18	AMSTAR INC	9,397.48
2/18	ANDERTON GROUP II LTD	16,195.55
2/18	ANDREW NAVARRETTE	51.00
2/18	ANH NGUYEN	333.00
2/18	ANITA CERVANTES	1,953.40
2/18	ANNIE NELSON	173.13
2/18	ANTHONY SCOTT	53.29
2/18	APRIL HORTON	75.69
2/18	ARMANDO RONQUILLO	140.00
2/18	ASHLEY ROJO	52.85
2/18	AT&T	2,395.58
2/18	AT&T LONG DISTANCE	37.68
2/18	ATHLETIC SUPPLY INC	1,917.56
2/18	ATMOS ENERGY	139,266.08
2/18	AV LAWN AND TREE CARE SERVICES, LLC	9,772.00
2/18	BATTERIES UNLIMITED WTX LLC	605.50
2/18	BECKY QUIROZ	184.87
2/18	BETSY LUJAN	496.53
2/18	BIMBO BAKERIES USA	2,827.44
2/18	BLUE STAR BUS SALES LTD	614.48
2/18	BRADLEY MERRITT	328.33
2/18	BRAZOS DOOR & HARDWARE	2,375.00
2/18	BRIANNA MCDOWELL	35.00
2/18	BRITTANY MOLINAR	804.80
2/18	BUSINESS PROFESSIONALS AMERICA	8,181.10
2/18	CABLE ONE, INC.	988.26
2/18	CALPINE CORPORATION	94,409.97
2/18	CAROLINA BIOLOGICAL SUPPLY CO	395.78
2/18	CASHWAY WEST, INC.	11.98
2/18	CHARLEEN RODRIGUEZ	51.00

2/18	CHARLES AND LEZIEE CHURCHFIELD	28,294.98
2/18	CHERYL CUNNINGHAM	1,872.00
2/18	CHRISTINA ACOSTA	562.00
2/18	CIRCLE P RANCH SUPPLY INC	378.48
2/18	CLEARBROOK FARMS INC	28,224.00
2/18	COMMAND COMMISSIONING LLC	1,950.00
2/18	CURRICULUM ASSOCIATES INC	5,260.34
2/18	CYNTHIA RUBALCADO	158.00
2/18	D.S FABELAS RESTAURANT LLC	499.00
2/18	DEAN GARZA	400.00
2/18	DEAN GARZA	300.00
2/18	DIANA ONTIVEROS IGLESIAS	21.32
2/18	DOMTECH ELECTRICAL AND CONTROLS LLC	1,000.00
2/18	EASON HORTICULTURAL RESOURCES	2,060.95
2/18	ECTOR COUNTY UTILITY DISTRICT	3,147.68
2/18	ELIZABETH MARJASON	45.68
2/18	ELSA COCKER	475.00
2/18	ELSA LAZCANO	98.96
2/18	EXALANDER S MAGALLAN	851.80
2/18	G H DAIRY	32,335.92
2/18	G & G INVESTMENTS INC	828.22
2/18	GARDENDALE WATER CO	64.00
2/18	GARY CUNNINGHAM	86.35
2/18	GARY WEATHERFORD	386.00
2/18	GOLD CREEK FOODS	11,856.00
2/18	GOPHER SPORT	478.81
2/18	GRAINGER	1,355.52
2/18	HENTHORN COMMERCIAL CONSTRUCTION LLC	216,629.74
2/18	HILBERTO OCHOA	306.00
2/18	HOME DEPOT USA INC - STORE #562	3,648.07
2/18	HUMBERTO HERNANDEZ JR	4,040.00
2/18	RITCHIE VINCENT INC	180.00
2/18	IMPACT PROMOTIONAL SERVICES LLC	1,789.00
2/18	IMPACT PROMOTIONAL SERVICES LLC	266.50
2/18	IMPERIAL BAG & PAPER COMPANY LLC	6,686.44
2/18	ISABEL CARDONA	158.00
2/18	IVA HODGES	1,710.00
2/18	IXL LEARNING	595.00
2/18	KEVIN D BALLARD INC	415.00
2/18	J J FLOWER DISTRIBUTION LLC	2,116.21
2/18	JACE SCHREIBER	101.28
2/18	JACLYN THOMAS	36.32

2/18	JAMI LYN GATEWOOD	47.89
2/18	JAVIER RUIZ	2,449.00
2/18	JERIMIE HERNANDEZ	1,294.00
2/18	JESSICA ERWIN	51.00
2/18	JOHNNY H. RODRIGUEZ	160.00
2/18	JORGE DIAZ	92.23
2/18	JOSEPH HILLIARD	350.00
2/18	JOSEPH MANSANALES	51.00
2/18	JULIA PAREDEZ	64.31
2/18	JUSTIN YOUNG	260.00
2/18	KANDIS SNOWDEN	134.28
2/18	KATELYN WATTS	200.00
2/18	KNOX ASSOCIATES INC	505.00
2/18	KRISTEN VESELY	682.60
2/18	KRONOS INC.	8,580.00
2/18	LABATT FOOD SERVICE	76,622.06
2/18	LAURA CAROLINA GARCIA SMIT	17.91
2/18	LAURA SIKES	144.83
2/18	LAURA SIKES	99.19
2/18	LAURA SIKES	220.03
2/18	LAUREN TAVAREZ	120.00
2/18	LEAD4WARD LLC	4,500.00
2/18	LEASE SERVICING CENTER INC	10,484.09
2/18	LIVESTOCKJUDGING.COM	300.00
2/18	LUISANA MAURICIO	31.76
2/18	MABEL MORALES	9.45
2/18	MALLORY POMEROY	78.81
2/18	MANSFIELD OIL COMPANY OF GAINESVILLE, INC	16,388.43
2/18	MARIA ORTIZ	679.52
2/18	MARIA ZUBIATE	54.81
2/18	MARIA ZUBIATE	76.20
2/18	MARK VARELA	450.00
2/18	MASBA	1,500.00
2/18	MAYRA R ALVAREZ	77.21
2/18	MELISSA QUINTELA	10.59
2/18	MICHAEL HAWLEY	645.75
2/18	MICHELLE MADRID	41.62
2/18	MICHELLE MADRID	19.53
2/18	MIKAL CROWDER	2,772.00
2/18	MISTY STEWART	49.88
2/18	MORRIS ENTERPRISES LLC	205.74
2/18	MSB SCHOOL SERVICES LLC	2.81

2/18	MULTI-HEALTH SYSTEMS INC	575.00
2/18	N-TUNE MUSIC & SOUND INC	187.50
2/18	NARDONE BROS. BAKING CO. INC.	12,543.00
2/18	NATIVIDAD J. ARMENDAREZ	280.00
2/18	NIMBUS DRINKING WATER SYSTEMS LTD	131.00
2/18	NOLAN PRITCHARD	200.00
2/18	NORA ISELA CRUZ	59.02
2/18	ODESSA COLLEGE	2,320.00
2/18	ODESSA FAMILY YMCA	31,001.00
2/18	SEWCO INC	4,442.48
2/18	JANETTE ESCOBEDO	47.99
2/18	MARIAH SWEARINGTON	526.00
2/18	MATTHEW BREWER	47.99
2/18	ROSALINDA ARMENDARIZ	47.99
2/18	TNISHA A JONES	10.00
2/18	PBK ARCHITECTS, INC	118,622.00
2/18	PENSKE COMMERCIAL VEHICLES US LLC	553.07
2/18	PETROPLEX OFFICE SUPPLY	3,853.87
2/18	RAUL SANCHEZ	300.00
2/18	REGION 18 EDUCATION SERVICE CENTER	2,325.00
2/18	REGION 18 EDUCATION SERVICE CENTER	38,500.00
2/18	REYMUNDO REYES	80.00
2/18	RIGO NUNEZ	140.29
2/18	RILEY COFFMAN	218.59
2/18	ROBERT BRADY PEUGH	1,218.64
2/18	ROBERTS TRUCK CENTER OF TEXAS	1,440.36
2/18	RODNEY CHARLES ROMAN	830.00
2/18	RONALD PROMESSE	400.00
2/18	RONALD PROMESSE	300.00
2/18	RR & E SERVICES LLC	1,000.00
2/18	RUSSELL D. KING	1,272.50
2/18	S.A. PIAZZA & ASSOC. INC	44,653.56
2/18	SAFEBUILT TEXAS LLC	8,666.21
2/18	SAMANTHA SOTELO	1,797.62
2/18	SANDY OCHOA	20.00
2/18	SARAH R AGUIRRE	30.45
2/18	SCOTT WINDHAM	414.00
2/18	SHANNA EDWARDS	24.36
2/18	SHANNON CRISWELL	15.95
2/18	SHAWN ROUTH	282.00
2/18	SONNY NARVAIZ	68.80
2/18	STACEY J NUNEZ	386.00

2/18	STEPHANIE WRIGHT	158.00
2/18	STEPHEN TROUB	325.00
2/18	SUSAN TREVINO	66.56
2/18	KIRSTEN DANIELLE YBARRA	1,200.00
2/18	SYSCO USA, INC	47,662.90
2/18	TAYLOR KATHRYN LAING	282.00
2/18	TERACIA JERNIGAN	960.00
2/18	TEXAS ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS	1,568.00
2/18	TEXAS CHORAL DIRECTORS ASSOCIATION	100.00
2/18	TEXAS LIBRARY ASSOCIATION	769.00
2/18	TEXAS TECH	18,372.50
2/18	THOMAS GONZALES	89.67
2/18	TROPHY DEN	3,435.25
2/18	TYLER THOMPSON	300.00
2/18	UIL MUSIC REGION 6	3,300.00
2/18	UNITED REFRIGERATION	89.96
2/18	THE UNIVERSITY OF TEXAS AT AUSTIN	175.00
2/18	VERIZON WIRELESS SERVICES LLC	1,411.75
2/18	VERIZON WIRELESS SERVICES LLC	338.04
2/18	VERIZON WIRELESS SERVICES LLC	531.92
2/18	VERIZON WIRELESS SERVICES LLC	462.52
2/18	VITAL SIGNS DOT DESIGN LLC	10,700.78
2/18	WADE MCCLINTOCK	450.00
2/18	WALKER HARGROVE	250.00
2/18	WESLEY HIGH	929.09
2/18	WILLIAM KENT MCCORD	60.47
2/18	YOANA PICAZO	2,159.00
2/25	ANGEL ORTIZ	8,800.00
2/25	AIRGAS USA LLC	363.58
2/25	ALEJANDRA ROBLES	420.00
2/25	ALEX LIGON	374.00
2/25	ALICIA DOMINGUEZ	1,820.00
2/25	ALL AMERICAN CHEVY OF ODESSA	15,683.75
2/25	ALONDRA SANDATE	120.00
2/25	ALONDRA SANDATE	115.67
2/25	AMANDA CASTELLANOS	28.91
2/25	AMAZON CAPITAL SERVICES	29,545.78
2/25	AMAZON CAPITAL SERVICES	94.19
2/25	AMERICAN FAMILY LIFE & CANCER	6.00
2/25	ASSOCIATION OF TEXAS	2,917.96
2/25	AT&T	9,773.53
2/25	AT&T MOBILITY	62.83

2/25	ATHLETIC SUPPLY INC	9,920.50
2/25	ATKINS HOLLMAN JONES PEACOCK	487.50
2/25	B&H FOTO & ELECTRONICS CORP	501.92
2/25	BEN E KEITH AMARILLO	363.70
2/25	BEVCAP MANAGEMENT LLC	145,444.70
2/25	BIMBO BAKERIES USA	2,712.70
2/25	BOOKBINDING & LAMINATING INC	358.50
2/25	BRYAN MORGAN	3,177.00
2/25	SYNOVIA SOLUTIONS LLC	65,520.00
2/25	CALFED FINANCIAL CORPORATION	19,337.50
2/25	CAROL ANN BRODERSEN	1,200.00
2/25	NBCEC INC	102.00
2/25	CHRISTINE VAN SYOC	604.00
2/25	COMMERCIAL FOOD SERVICE	1,972.85
2/25	CUSTOM WHOLESALE SUPPLY INC	317.83
2/25	CUSTOMINK, LLC	539.65
2/25	CUSTOMINK, LLC	637.50
2/25	DANA DEBOSE	15.54
2/25	DANA SAFETY SUPPLY	229.96
2/25	DANIEL WARD	1,455.48
2/25	DAWN L MILLER	420.00
2/25	DELMA ABALOS	220.00
2/25	ECISD EDUCATION FOUNDATION	536.70
2/25	EXALANDER S MAGALLAN	173.03
2/25	FAMILY & CONSUMER SCIENCES	26.88
2/25	FIRST FINANCIAL ADMINISTRATORS	29,412.50
2/25	FIRST FINANCIAL ADMINISTRATORS	12,380.00
2/25	FIRST FINANCIAL ADMINISTRATORS	72,680.33
2/25	FIRST FINANCIAL ADMINISTRATORS	2,625.00
2/25	FIRST FINANCIAL ADMINISTRATORS	100.00
2/25	FIRST FINANCIAL ADMINISTRATORS	200.00
2/25	FIRST FINANCIAL ADMINISTRATORS	14,555.50
2/25	FIRST FINANCIAL ADMINISTRATORS	925.49
2/25	FIRST FINANCIAL ADMINISTRATORS	7,357.14
2/25	FIRST FINANCIAL ADMINISTRATORS	5,206.20
2/25	FIRST FINANCIAL ADMINISTRATORS	6,712.17
2/25	FIRST FINANCIAL ADMINISTRATORS	4,930.08
2/25	FIRST FINANCIAL ADMINISTRATORS	5,516.31
2/25	FIRST FINANCIAL ADMINISTRATORS	66,422.37
2/25	FIRST FINANCIAL ADMINISTRATORS	27,863.48
2/25	FIRST FINANCIAL ADMINISTRATORS	132,443.18
2/25	FIRST FINANCIAL ADMINISTRATORS	2,157.06

2/25	FLORIDA LEAGUE OF IB SCHOOLS (FLIBS)	1,125.00
2/25	FLORIDA STATE DISBURSEMENT UNIT	222.04
2/25	FOLLETT CONTENT SOLUTIONS LLC	3,960.81
2/25	G H DAIRY	27,806.70
2/25	G & G INVESTMENTS INC	595.70
2/25	GOPHER SPORT	860.95
2/25	GOT TO SPECIALTIES LLC	428.00
2/25	GRAINGER	1,728.48
2/25	GRANDE COMMUNICATIONS NETWORK LLC	1,591.58
2/25	GRANDE COMMUNICATIONS NETWORK LLC	1,641.71
2/25	HEALTH SERVICES ADMINISTRATION	732.40
2/25	HEALTH SERVICES ADMINISTRATION	26,448.17
2/25	HECTOR GUERRERO	7,354.00
2/25	HUMBERTO HERNANDEZ JR	900.00
2/25	IMPERIAL BAG & PAPER COMPANY LLC	580.52
2/25	JACKSON VINES	360.00
2/25	JACKSON VINES	240.00
2/25	JESSICA DOMINGUEZ	51.00
2/25	JNT RESOURCES PARTNERS, LP	1,873.29
2/25	JNT RESOURCES PARTNERS, LP	23,396.28
2/25	JNT RESOURCES PARTNERS LP	40,158.99
2/25	JOHN DOMINGUEZ	374.00
2/25	JOHN'S SALES & SERVICE	3,120.14
2/25	JOHN SIBLEY	138.26
2/25	KATELYN WATTS	175.00
2/25	KEELEY BOYER	120.00
2/25	KELLY STANSELL	113.11
2/25	KLEMENT DISTRIBUTION INC	5,070.82
2/25	LABATT FOOD SERVICE	80,635.70
2/25	LEAD4WARD LLC	1,590.00
2/25	MAGDA RODRIGUEZ	69.39
2/25	MAURICIO MARQUEZ	120.00
2/25	MELISA VALENZUELA	1,292.32
2/25	MICAH PETTIGREW	1,292.33
2/25	MISTY HINER	604.00
2/25	MONK HOLDINGS LLC	540.00
2/25	MORRIS ENTERPRISES LLC	2,453.76
2/25	MSB SCHOOL SERVICES LLC	221.32
2/25	N-TUNE MUSIC & SOUND INC	1,806.50
2/25	NATIONAL FOOD GROUP INC	47,104.00
2/25	STATE OF NEW MEXICO	300.00
2/25	ODESSA CHAMBER OF COMMERCE	125.00

2/25	ODESSA COLLEGE	424.76
2/25	ODESSA SIGN SOLUTION LLC	1,129.00
2/25	SEWCO INC	5,905.32
2/25	OMERO CARRASCO	374.00
2/25	PATRICIA LOGAN	604.00
2/25	PENSKE COMMERCIAL VEHICLES US LLC	1,464.91
2/25	PSI JF PETROLEUM GROUP	1,018.27
2/25	PETROPLEX OFFICE SUPPLY	23,037.89
2/25	POCKET NURSE ENTERPRISES INC	1,760.98
2/25	PRECISION BUSINESS MACHINES INC	2,554.83
2/25	ROBIN HERRINGTON	3,084.00
2/25	RODNEY CHARLES ROMAN	600.00
2/25	ROSAS CAFE & TORTILLA FACTORY LTD	347.05
2/25	RUSSELL D. KING	11,130.00
2/25	SCOTT WINDHAM	250.00
2/25	SHELBY HILL	360.00
2/25	SIMS PLASTIC INC	60.18
2/25	SKILLSUSA TEXAS ASSOCIATION SECONDARY INC	232.00
2/25	SOLIANT HEALTH LLC	5,100.00
2/25	STEPHEN TROUB	600.00
2/25	STEVE BROWN	609.38
2/25	SYSCO USA, INC	14,660.56
2/25	TERRACON CONSULTANTS INC	11,330.00
2/25	TEXAS A&M ENGINEERING EXTENSION SERVICE	350.00
2/25	TEXAS AFT AMP	247.50
2/25	TEXAS ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS	114.00
2/25	TEXAS ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS	890.00
2/25	TEXAS CLASSROOM TEACHERS ASSOC	3,513.00
2/25	TEXAS ELEMENTARY PRINCIPALS & SUPERVISORS ASSOC	261.30
2/25	TEXAS INTERNATIONAL BACCALAUREATE SCHOOLS	10,000.00
2/25	TEXAS INDUSTRIAL VOCATIONAL ASSOCIATION	105.70
2/25	TEXAS LIFE INSURANCE CO	153,949.26
2/25	TEXAS STATE TEACHERS ASSOCIATION	37,954.70
2/25	THE CINCINNATI LIFE INS. CO	20.04
2/25	THE CINCINNATI LIFE INS. CO	206.71
2/25	THELMA CHAPA	24.65
2/25	THOMPSON & HORTON LLP	9,381.49
2/25	TREVOR PRESLAR	539.00
2/25	TYLER TECHNOLOGIES INC	115,470.41
2/25	UNITED REFRIGERATION	347.10
2/25	UNITED STATES CELLULAR CORPORATION	196.16
2/25	UNITED WAY OF ODESSA	2,622.06

2/25	VANCE WASHINGTON	84.00
2/25	VANESSA CASTILLO	3,600.00
2/25	VERIZON WIRELESS SERVICES LLC	44.12
2/25	VEX ROBOTICS INC	1,766.12
2/25	WADE MCCLINTOCK	350.00
2/25	WATCHFIRE ENTERPRISES INC	6,366.00
2/25	WAWONA FROZEN FOODS	20,596.80
2/25	WEST TEXAS EDUCATORS	182,342.83
2/25	WEST TEXAS EDUCATORS	2,878.00
2/25	WEST TEXAS SOFTBALL UMPIRES	575.00
2/25	WEST TEXAS SOFTBALL UMPIRES	425.00
2/25	IISE F RUIZ MARQUEZ	965.00
3/4	GABRIEL KYLE MANALASTAS	188.28
3/4	ANGEL ORTIZ	3,100.00
3/4	ALBERT J VALENCIA	173.28
3/4	ALLEN TEINERT CONSTRUCTION	534,770.73
3/4	ALLEN TEINERT CONSTRUCTION	399,876.95
3/4	ALLEN TEINERT CONSTRUCTION	129,605.24
3/4	ALLIANCE RECOVERY LLC	135.00
3/4	ALPHA FOODS CO.	32,568.48
3/4	AMAZON CAPITAL SERVICES	82,893.26
3/4	AMAZON CAPITAL SERVICES	7,094.60
3/4	AMAZON CAPITAL SERVICES	36.41
3/4	ANGELA JOHNSON	62.50
3/4	APPLE, INC	1,896.00
3/4	ASHLEY ROJO	168.78
3/4	ATHLETIC SUPPLY INC	33,181.34
3/4	ATKINS HOLLMAN JONES PEACOCK	39,128.99
3/4	ATMOS ENERGY	163.78
3/4	AUDIO ACOUSTICS HEARING CENTERS	1,350.00
3/4	AUTOZONE INC	975.00
3/4	BILLIE GAMBOA	74.82
3/4	BIMBO BAKERIES USA	1,696.64
3/4	BIMBO BAKERIES USA	140.00
3/4	BLAKE MCDONALD	60.32
3/4	DICK BLICK COMPANY	596.81
3/4	BLUE STAR BUS SALES LTD	999.99
3/4	BRAUN BEEF & CO INC	10,563.84
3/4	CALPINE CORPORATION	130,234.29
3/4	CARLY MICHELLE HUNT	201.00
3/4	CAROLINA BIOLOGICAL SUPPLY CO	1,899.51
3/4	CHANTAL HERNANDEZ	115.20

3/4	CHRISTINA SIFUENTEZ	76.05
3/4	CLAUDIA GRANADOS	31.68
3/4	COCA-COLA SOUTHWEST BEVERAGES LLC	1,278.91
3/4	CODY GULLETT	78.59
3/4	CONSCIOUS DISCIPLINE HOLDINGS LLC	359.96
3/4	CRYSTAL DAY	360.00
3/4	CULLIGAN WATER CONDITIONING OF WEST TEXAS	36.00
3/4	CUSTOM WHOLESALE SUPPLY INC	1,582.10
3/4	DANIEL BUSTAMANTE	172.55
3/4	DARRYL WILLIAMS	149,875.00
3/4	DARRYL WILLIAMS	49,875.00
3/4	DEAN GARZA	175.00
3/4	DEBRA BYNUM	2,581.86
3/4	DEBRA BYNUM	110.77
3/4	DLR GROUP INC OF TEXAS , A TEXAS CORPORATION	5,850.00
3/4	EFREN ZUNIGA	61.12
3/4	ELITE K9 INC	2,240.20
3/4	ELUMA LLC	94,125.00
3/4	EMILY R CHASCO	71.20
3/4	ERIKA NATIVIDAD	84.97
3/4	FIDENCIA GUTIERREZ	12.18
3/4	FOLLETT CONTENT SOLUTIONS LLC	453.04
3/4	FRED HOWARD	1,400.00
3/4	FRED HOWARD	2,070.00
3/4	G H DAIRY	28,821.99
3/4	GENEVA GARCIA	61.63
3/4	GEORGINA L ROACHO CERROS	168.75
3/4	GOPHER SPORT	1,018.78
3/4	GOT TO SPECIALTIES LLC	782.50
3/4	GRAINGER	3,435.27
3/4	GEORGE CROSS	1,015.00
3/4	GROGGY DOG SPORTSWEAR & GRAPHIC DESIGN	6,967.25
3/4	HENTHORN COMMERCIAL CONSTRUCTION LLC	501,568.45
3/4	HENTHORN COMMERCIAL CONSTRUCTION LLC	126,580.54
3/4	HENTHORN COMMERCIAL CONSTRUCTION LLC	166,101.69
3/4	HILBERTO OCHOA	1,095.00
3/4	HOME DEPOT USA INC - STORE #562	11,584.37
3/4	HORTENCIA DEL BOSQUE	212.93
3/4	HUMBERTO HERNANDEZ JR	7,214.46
3/4	IMPERIAL BAG & PAPER COMPANY LLC	15,139.92
3/4	INDUSTRIAL COMMUNICATIONS	71.78
3/4	INSTRUCTIONAL MATERIALS COORDINATORS ASSOCIATION	445.00

3/4	IXL LEARNING	595.00
3/4	JOSE RAPHAEL MASONSONG	116.23
3/4	JULIA CARRASCO	73.95
3/4	KIMBERLY BRYER	61.19
3/4	KLEMENT DISTRIBUTION INC	711.65
3/4	LABATT FOOD SERVICE	85,297.03
3/4	LEAD4WARD LLC	9,650.00
3/4	LEGACY MOTORCYCLE ENTERPRISE INC	3,452.42
3/4	LEGACY MOTORCYCLE ENTERPRISE INC	3,975.47
3/4	LIBERTY PAPER	23,872.80
3/4	LIGHTS ON SOLUTIONS LLC	58,033.55
3/4	LISA DONAHO	45.68
3/4	LORENZO R MASONSONG	41.32
3/4	LOST MOUNTAIN COMMERCE, LLC	3,008.99
3/4	MABEL GUTIERREZ	135.29
3/4	MANSFIELD OIL COMPANY OF GAINESVILLE, INC	37,234.24
3/4	MARGARET EDWARDS	55.61
3/4	MARK JOSHUA G.STODOMINGO	310.30
3/4	MARLA HOPPINS	23.78
3/4	MARLIN LEASING CORPORATION	145.44
3/4	MARLIN LEASING CORPORATION	521.88
3/4	MARLIN LEASING CORPORATION	147.98
3/4	MARLIN LEASING CORPORATION	138.35
3/4	MICHAEL FLAX	495.00
3/4	MOBILE COMMUNICATION AMERICA INC	2,680.00
3/4	MORRIS ENTERPRISES LLC	945.00
3/4	MSB SCHOOL SERVICES LLC	2.37
3/4	N-TUNE MUSIC & SOUND INC	779.50
3/4	NAYELI OLIVAREZ	110.49
3/4	NETSYNC NETWORK SOLUTIONS	30,113.50
3/4	NEXTGEN SECURITY	3,988.40
3/4	NEXTGEN SECURITY	32,921.28
3/4	ODESSA CHAMBER OF COMMERCE	375.00
3/4	ODESSA COLLEGE	19,741.00
3/4	ODESSA COUNTRY CLUB	1,600.00
3/4	ODP BUSINESS SOLUTIONS LLC	11,748.01
3/4	SEWCO INC	5,824.56
3/4	OLIVIA PORRAS	157.90
3/4	PERMIAN BASIN BASKETBALL OFFICIALS ASSOCIATION	1,200.00
3/4	PARKHILL, SMITH & COOPER, INC.	964.92
3/4	PARKHILL, SMITH & COOPER, INC.	71,258.90
3/4	PBK ARCHITECTS, INC	128,434.33

3/4	PENSKE COMMERCIAL VEHICLES US LLC	52.88
3/4	PERLA QUINTANA	560.00
3/4	SHANNON D GAYLOR	881.90
3/4	PIRAINO CONSULTING, INC	24,174.60
3/4	PLASCO ID HOLDING LLC	2,778.99
3/4	PRECISION BUSINESS MACHINES INC	2,016.35
3/4	RACHEL MADRID	23.20
3/4	RAUL SANCHEZ	175.00
3/4	RAY DOMINGUEZ	34.87
3/4	REGION 18 EDUCATION SERVICE CENTER	50,750.00
3/4	ROBERTS TRUCK CENTER OF TEXAS	1,019.40
3/4	RODNEY CHARLES ROMAN	800.00
3/4	RODNEY CHARLES ROMAN	245.00
3/4	RONALD PROMESSE	175.00
3/4	ROSA HERNANDEZ	15.66
3/4	ROSAS CAFE & TORTILLA FACTORY LTD	419.50
3/4	ROSELL D CAUFIELD	1,600.00
3/4	ROSS JOHN LARA	103.31
3/4	RUBEN GARCIA	80.48
3/4	SARAH RODRIQUEZ	97.88
3/4	SCHOOL NUTRITION ASSOCIATION SERVICE CENTER	204.00
3/4	SCOTT MURI	3,333.33
3/4	SCOTT RUDES	19.20
3/4	SCOTT WALKER	195.61
3/4	SHELBYE HILL	175.00
3/4	SHOPPA'S MATERIAL HANDLING	11,405.00
3/4	SIMPSON GUMPERTZ & HEGER INC	1,637.50
3/4	SIMS PLASTIC INC	1,221.81
3/4	SKYWAY CHARTERS LLC	6,000.00
3/4	SOLIANT HEALTH LLC	2,700.00
3/4	SPEECH SPECIALISTS OF SAN ANTONIO, P.C.	15,768.75
3/4	STEPHEN TROUB	400.00
3/4	STEPHEN TROUB	350.00
3/4	TERRACON CONSULTANTS INC	16,923.75
3/4	TEXAS ACADEMIC DECATHLON FOUNDATION	176.00
3/4	TEXAS DEPARTMENT OF LICENSING AND REGULATION	20.00
3/4	TEXAS DEPARTMENT OF INFORMATION RESOURCES	395.48
3/4	TEXAS EXCAVATION SAFETY SYSTEM, INC.	9.20
3/4	TEXAS SCOTTISH RITE HOSPITAL	21,102.50
3/4	THEODORE MCDONALD	39.59
3/4	TRACI AVILA	13.99
3/4	TRISTAN CROWDER	85.04

3/4	TYLER THOMPSON	175.00
3/4	UIL MUSIC REGION 6	5,500.00
3/4	UNITED REFRIGERATION	46.28
3/4	THE UNIVERSITY OF TEXAS AT AUSTIN	19,500.00
3/4	US FOODS, INC.	7,177.32
3/4	VANCE WASHINGTON	350.00
3/4	VANCE WASHINGTON	990.00
3/4	VERIZON WIRELESS SERVICES LLC	4,112.80
3/4	VICKIE C WUSTERBARTH	9.43
3/4	VIKTORIA R HENDERSON	88.16
3/4	WALSH GALLEGOS KYLE ROBINSON & DE LOS SANTOS PC	2,253.00
3/4	WEST TEXAS CHAPTER TASO	1,000.00
3/4	YOLANDA MARTINEZ	14.36
3/4	YVETTE ABILA	246.19
2/5	AETNA LIFE INSURANCE COMPANY	57,040.86
2/9	AETNA LIFE INSURANCE COMPANY	262,572.02
2/9	WELLSPRING TELEHEALTH	14,985.00
2/9	UMB BANK N.A.	826,898.25
2/9	UMB BANK N.A.	4,035,700.00
2/9	UMB BANK N.A.	1,990,900.00
2/9	UMB BANK N.A.	2,836,123.90
2/12	LUCYRX HEALTH SOLUTIONS, INC	112,053.41
2/17	BLUE CROSS BLUE SHIELD TEXAS	14,885.20
2/17	AETNA LIFE INSURANCE COMPANY	415,719.05
2/19	BLUE CROSS BLUE SHIELD TEXAS	599,926.89
2/19	UTPB	203,422.00
2/23	AETNA LIFE INSURANCE COMPANY	253,520.12
2/26	LUCYRX HEALTH SOLUTIONS, INC	183,332.00
2/26	BLUE CROSS BLUE SHIELD TEXAS	32,142.10
2/26	CAREATC INC	3,692.00
2/26	CAREATC INC	4,586.43
2/26	LUCYRX HEALTH SOLUTIONS, INC	1,839.21

TOTAL NUMBER OF CHECKS WRITTEN FOR DISTRICT	909
TOTAL AMOUNT WRITTEN FOR DISTRICT	\$ 26,107,216.38



**REQUEST FOR APPROVAL OF
ACCEPTANCE OF DONATIONS OVER \$10,000**

In accordance with policy CDC (local), attached you will find a list of donations greater than \$10,000 for your approval.



REQUEST FOR APPROVAL OF RECOMMENDATIONS OF LIBRARY MATERIALS

SB 13, enacted by the 89th Texas Legislature, introduces additional requirements regarding a school district's procedures for procuring library materials and/or accepting donations of books intended for a campus library.

The materials referenced have been thoroughly reviewed to ensure compliance with the Texas State Library and Archives Commission School Library Programs: Standards and Guidelines for Texas, as well as all requirements specified in EFB (LEGAL).

This list has been available to the public for 30 days before the Board voted to accept the titles that were donated or requested for procurement in accordance with legal requirements.

The Digital Learning Department requests approval of the list of recommended library materials.

Master List of Requests

Book Request Date	Book Title	Author
Review for March 2026 Board Meeting		
January 21, 2025	Texas Before the Lone Star	Texas Society Daughters of the American Revolution



REQUEST FOR APPROVAL OF PARTICIPATION IN LOCAL GOVERNMENT INVESTMENT COOPERATIVE (LOGIC)

The District would like to add LOGIC (Local Government Investment Cooperative) as an approved investment option in accordance with the Texas Public Funds Investment Act which is set forth in the Texas Government Code Chapter 2256. LOGIC is a AAA-rated local government investment pool designed specifically for Texas public entities and provides safety of principal, daily liquidity and competitive yields.

Administrative Recommendation:

Approval of participation in LOGIC Investment Pool



INFORMATION ITEMS

- Financials
- Purchases Over \$50,000 Informational Report
- Routine Personnel Report



FINANCIALS

The financial statements for the three required adopted budgets for the most recently closed month for the current fiscal year follow.

EOM BUDGET REPORT 199
 JANUARY 31, 2026

FOR 2026 07

	ORIGINAL APPROP	TRANFRS/ ADJSTMTS	REVISED BUDGET	YTD ACTUAL	ENCUMBRANCES	AVAILABLE BUDGET	PCT USE/COL
199 GENERAL FUND							
00 GENERAL LEDGER AND REVENUE	-369,185,000	-991,443	-370,176,443	-218,967,699.65	.00	-151,208,743.35	59.2%
11 INSTRUCTION	211,629,923	1,231,436	212,861,359	98,789,911.56	83,380,771.04	30,690,676.40	85.6%
12 INSTRUCTIONAL RES & MEDIA SERV	2,020,954	-93,551	1,927,403	914,196.33	669,048.74	344,157.93	82.1%
13 CURRICULUM & STAFF DEVELOPMENT	9,347,135	-259,751	9,087,384	4,159,259.97	2,285,969.13	2,642,154.90	70.9%
21 INSTRUCTIONAL LEADERSHIP	5,662,506	-84,352	5,578,154	2,859,105.28	1,695,713.63	1,023,335.09	81.7%
23 SCHOOL LEADERSHIP	21,728,046	493,163	22,221,209	11,892,695.09	8,140,754.44	2,187,759.47	90.2%
31 GUID, COUNS & EVALUATION SERVS	17,546,309	491,309	18,037,618	9,319,983.66	7,599,364.65	1,118,269.69	93.8%
32 SOCIAL WORK SERVICES	1,732,378	43,959	1,776,337	949,083.38	789,175.56	38,078.06	97.9%
33 HEALTH SERVICES	3,257,259	97,410	3,354,669	1,731,364.18	1,417,742.66	205,562.16	93.9%
34 STUDENT TRANSPORTATION	11,909,952	-333,976	11,575,976	5,120,309.23	2,978,940.15	3,476,726.62	70.0%
36 CO/EXTRACURRICULAR ACTIVITIES	8,113,940	1,196,487	9,310,427	4,461,512.44	2,102,429.53	2,746,485.03	70.5%
41 GENERAL ADMINISTRATION	9,310,815	93,280	9,404,095	4,789,981.35	3,185,134.22	1,428,979.43	84.8%
51 FACILITIES MAINT & OPERATIONS	39,715,583	1,712,836	41,428,419	20,088,637.29	11,644,181.18	9,695,600.53	76.6%
52 SECURITY & MONITORING SERVICES	6,640,841	1,344,450	7,985,291	4,852,678.08	2,317,125.88	815,487.04	89.8%
53 DATA PROCESSING SERVICES	14,904,098	582,921	15,487,019	5,968,298.13	2,755,109.22	6,763,611.65	56.3%
61 COMMUNITY SERVICES	1,500,512	161,602	1,662,114	805,637.45	561,304.99	295,171.56	82.2%
71 DEBT SERVICE	1,359,000	0	1,359,000	459,482.31	273,357.69	626,160.00	53.9%
81 FACILITIES ACQUISITION & CONST	4,431,749	910,906	5,342,655	1,696,811.03	914,094.53	2,731,749.44	48.9%
99 INTERGOVERNMENTAL CHARGES	2,374,000	0	2,374,000	983,620.25	1,390,379.75	.00	100.0%
TOTAL GENERAL FUND	4,000,000	6,596,686	10,596,686	-39,125,132.64	134,100,596.99	-84,378,778.35	896.3%
TOTAL REVENUES	-369,710,000	-466,443	-370,176,443	-218,967,699.65	.00	-151,208,743.35	
TOTAL EXPENSES	373,710,000	7,063,129	380,773,129	179,842,567.01	134,100,596.99	66,829,965.00	
GRAND TOTAL	4,000,000	6,596,686	10,596,686	-39,125,132.64	134,100,596.99	-84,378,778.35	896.3%

** END OF REPORT - Generated by EATON, MORGAN **

EOM BUDGET REPORT 240
 JANUARY 31, 2026

FOR 2026 07

	ORIGINAL APPROP	TRANFRS/ ADJSTMTS	REVISED BUDGET	YTD ACTUAL	ENCUMBRANCES	AVAILABLE BUDGET	PCT USE/COL
240 SCHOOL NUTRITION							
00 GENERAL LEDGER AND REVENUE	-21,827,628	0	-21,827,628	-12,256,675.40	.00	-9,570,952.60	56.2%
35 FOOD SERVICE	21,827,628	550,457	22,378,085	10,159,223.88	4,816,506.56	7,402,354.56	66.9%
TOTAL SCHOOL NUTRITION	0	550,457	550,457	-2,097,451.52	4,816,506.56	-2,168,598.04	494.0%
TOTAL REVENUES	-21,827,628	0	-21,827,628	-12,256,675.40	.00	-9,570,952.60	
TOTAL EXPENSES	21,827,628	550,457	22,378,085	10,159,223.88	4,816,506.56	7,402,354.56	
GRAND TOTAL	0	550,457	550,457	-2,097,451.52	4,816,506.56	-2,168,598.04	494.0%

** END OF REPORT - Generated by EATON, MORGAN **

EOM BUDGET REPORT 599
 JANUARY 31, 2026

FOR 2026 07

	ORIGINAL APPROP	TRANFRS/ ADJSTMTS	REVISED BUDGET	YTD ACTUAL	ENCUMBRANCES	AVAILABLE BUDGET	PCT USE/COL
599 DEBT SERVICE FUND							
00 GENERAL LEDGER AND REVENUE	-48,949,768	0	-48,949,768	-38,275,795.65	.00	-10,673,972.35	78.2%
71 DEBT SERVICE	48,949,768	0	48,949,768	31,129,646.27	9,692,023.64	8,128,098.09	83.4%
TOTAL DEBT SERVICE FUND	0	0	0	-7,146,149.38	9,692,023.64	-2,545,874.26	100.0%
TOTAL REVENUES	-48,949,768	0	-48,949,768	-38,275,795.65	.00	-10,673,972.35	
TOTAL EXPENSES	48,949,768	0	48,949,768	31,129,646.27	9,692,023.64	8,128,098.09	
GRAND TOTAL	0	0	0	-7,146,149.38	9,692,023.64	-2,545,874.26	100.0%

** END OF REPORT - Generated by EATON, MORGAN **



PURCHASES OVER \$100,000 INFORMATIONAL REPORT

The purchases over \$100,000 for the previous month of the current fiscal year follow. The report includes all such large purchases, regardless of required previous board approval.

As per Board Policy CH (local), the Superintendent is not required to obtain Board approval for the following types of budgeted purchases, regardless of cost:

1. A purchase made pursuant to a Board-approved interlocal contract or a cooperative purchasing program, in accordance with law;
2. A purchase made through a state purchasing program that satisfies the District's obligation for competitive purchasing [see CH(LEGAL) or CBB(LEGAL)]; or
3. A continuing or periodic purchase under a Board-approved bid or contract.

ECISD New Purchase Orders Over \$100,000 Report for February 2026

Item	PO Date	PO#	Vendor Name	Amount	General Comments	Approval Process	1st GL Account	Requestor	Department
1	02/09/2026	26007937	APPLE, INC	\$ 3,020,670	2026-27 STUDENT IPAD REFRESH 6,440 - iPad Wi-Fi 128GB MD6L4LL/A 6,448 - 4-Year AppleCare+ for Schools - iPad 644 - STM Dux Ox case with 3.5mm aux port for iPad 6,448 - APS IPAD DEPLOY SVC W/ DEPLOYASSIST-USA	CHOICE PARTNERS #23/0365G-01	199-11-6397-98-864-11-	JENNIFER VALENCIA	INFORMATION TECHNOLOGY
2	02/20/2026	26008506	PARKHILL, SMITH & COOPER, INC.	\$ 995,000	FACILITIES CONDITION ASSESSMENT LONG-RANGE MASTER	ECISD AWARDED RFQ 26-06	199-51-6299-BD-965-99-	BETHANY IBARRA	DISTRICT OPERATIONS
3	02/24/2026	26008657	ALLEN TEINERT CONSTRUCTION	\$ 779,753	PERMIAN HS ELECTRICAL WORK	BUYBOARD 783-25	693-81-6629-00-003-99-65424	BETHANY IBARRA	DISTRICT OPERATIONS

ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT
Odessa, Texas

MEMORANDUM

TO: Dr. Keeley Boyer, Superintendent of Schools

FROM: Dr. Matthew Spivy, Chief Human Capital Officer

RE: Routine Personnel Report for February 2026

DATE: 2/27/2026

Elementary Level Recommendations

NAME	JOB CLASS	CAMPUS	EFFECTIVE DATE
BRITTANI PALMER	KINDER	BUICE ELEMENTARY	02/11/26

Secondary Level Recommendations

NAME	JOB CLASS	CAMPUS	EFFECTIVE DATE
NATALY SOTELO	SCIENCE	ODESSA COLLEGIATE ACADEMY	02/09/26
ALIYAH ANCHONDO	FINE ARTS	ALTERNATIVE EDUCATION CENTER	02/16/26

Administrative Level Recommendations

NAME	JOB CLASS	CAMPUS/DEPARTMENT	EFFECTIVE DATE
BRANDY LOPEZ	ADVISOR, COLLEGE AND CAREER	ODESSA HIGH	02/16/26

Elementary Level Resignations

NAME	JOB CLASS	CAMPUS	EFFECTIVE DATE
KYLEE LUNSFORD	1ST GRADE	GONZALES ELEMENTARY	02/13/26

Secondary Level Resignations

NAME	JOB CLASS	CAMPUS	EFFECTIVE DATE
ARLEEN SANCHEZ	SCIENCE	ODESSA COLLEGIATE ACADEMY	02/06/26
BRIANNE WINFREY	BUSINESS EDUCATION	PERMIAN HIGH SCHOOL	02/20/26
TRACIE GARZA	SOCIAL STUDIES	PERMIAN HIGH SCHOOL	02/16/26
CRISTIAN DIAZ	MATH	PERMIAN HIGH SCHOOL	02/19/26
JEFFREY GUEVARA	SOCIAL STUDIES	NIMITZ MIDDLE SCHOOL	02/19/26

Administrative Level Resignations

NAME	JOB CLASS	CAMPUS/DEPARTMENT	EFFECTIVE DATE

MEMORANDUM

TO: Dr. Keeley Boyer, Superintendent of Schools
 FROM: Dr. Matthew Spivy, Chief Human Capital Officer
 RE: Information Report for March 2026
 DATE: 3/24/2026

ADDED ADMINISTRATIVE PROFESSIONAL AND STIPEND/SUPPLEMENTAL PAY PLAN		
POSITION/GROUP	DUTIES PERFORMED/DAYS	STIPEND/PAY GRADE

RECLASSIFIED ADMINISTRATIVE PROFESSIONAL AND STIPEND/SUPPLEMENTAL PAY PLAN		
POSITION/GROUP	DUTIES PERFORMED/DAYS	STIPEND/PAY GRADE
AUXILIARY	Supervisor of Maintenance, Facilities, and Energy Management	Name Change Only
Summer School	Principal	\$2,000 + Daily Rate
Summer School	Admin Intern - SL Assistant Principal	Daily Rate
Summer School	3-5 Elem Teacher	\$300/Day - 6 Hours
Summer School	6-8 Teacher	\$300/Day - 6 Hours
Summer School	Counselor - High School Academic	\$1,000 + \$300/Day
Summer School	Counselor - High School SAS	Daily Rate
Summer School	Nurese - Elem & MS	\$300/Day - 6 Hours

REMOVED ADMINISTRATIVE PROFESSIONAL AND STIPEND/SUPPLEMENTAL PAY PLAN		
POSITION/GROUP	DUTIES PERFORMED/DAYS	STIPEND/PAY GRADE