



Central Texas Community Health Centers d/b/a CommUnityCare

**Invitation for Bid
2018-09-003**

SEHWC Remodel and Renovation

Issue Date: 9/20/18

Procurement Point-of-Contact

CommUnityCare Purchasing Office

Purchasing Manager
2115 Kramer Lane
Austin, TX 78758
Office: 512/978-9016
tena.southwell@communitycaretx.org

Project Point-of-Contact

Steven Lamp – Vice President of Real Estate and Facilities
Travis County Healthcare District d/b/a Central Health
1111 East Cesar Chavez Street
Austin, TX 78702
Phone: 512.978.8155
Cell: 703.991.9042
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Steven.Lamp@centralhealth.net

Close Date: 10/23/18

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NOTICE TO BIDDERS

IFB 2018-09-003

SEHWC Remodel and Renovation

IFB Start Date: 9/20/18
IFB End Date: 10/23/18 at 2:00pm CT

Pre-Proposal Meeting Date
(Mandatory): 10/2/18 @ 9:00am
Meeting location: 2901 Montopolis Drive, Austin TX 78741

Questions Due: 10/5/18 at 5:00pm CT
Response Date: 10/9/18 by COB

IFB Contact: Purchasing Manager tena.southwell@communitycaretx.org

Contract Duration: One-Time

Bid Comments: Interested firms are invited to submit Proposals in accordance with the instructions in this Invitation for Bid (IFB No. 2018-09-003). Responses (including prices) are good for 90 days.

Only Paper Submittals are being accepted.

Proposals received at the designated location after the published time and date will not be considered.

Description:

Central Texas Community Health Centers d/b/a CommUnityCare ("CommUnityCare") and Travis County Healthcare District d/b/a Central Health, hereby known as "The Party" is requesting Bids from qualified Construction Contractors for minor remodel and renovation of SEHWC located at 2901 Montopolis Dr., Austin, TX 78741

Bidders are requested to send one (1) original Proposal and one (1) copy to be delivered to the following location and clearly marked as such:



*****Please include your return address on the outside of the bid package.***

I. INTRODUCTION

This section provides background on CommUnityCare, and the operating environment of CommUnityCare, which may be helpful to the Bidder in preparing the proposal. The information is provided as an overview and is not intended to be a complete and exhaustive description.

A. CommUnityCare Background Information

Central Texas Community Health Centers d/b/a CommUnityCare is a 501(c)(3) non-profit organization providing healthcare services to underinsured and uninsured residents of Travis and surrounding counties. CommUnityCare was formerly a department of the City of Austin, transitioning to a nonprofit status on March 1, 2009. Services are currently provided through 25 sites in Travis County, Texas with most of these sites located in Austin. These sites vary in size and services, but are best described as: (1) outpatient primary healthcare; (2) dental care; (3) limited specialty care (pulmonology, cardiology, GI, dermatology; and later this year, rheumatology); (4) laboratory services; (5) radiography and mammography at 2 sites; (6) multiple dispensing pharmacies and 1 retail pharmacy; and (7) behavioral health services integrated and co-located throughout our medical sites. Additional services include HIV/AIDS treatment through a dedicated site, and primary health care for homeless rendered through a clinic located within a homeless shelter and multiple community outreach sites with our services provided to homeless individuals further augmented through our “street medicine” teams. CommUnityCare’s funding is derived primarily from its taxing affiliate Central Health. CommUnityCare bills Medicare, Medicaid, commercial insurance and patients for services provided. In addition, we are the recipient of federal and private grant funds and services. Approximately fifty percent of CUC funding comes from patient services provided to the CommUnityCare Collaborative, a partnership of Central Health and a local hospital system.

B. Goals and Objectives

CommUnityCare’s goal is to provide access to health care for eligible residents of Travis County typically to those residents who are at or below 200% of the Federal Poverty Guidelines (FPG). Their vision is to improve the health of the community by increasing access to the best care possible

C. CommUnityCare Relationship with Central Health

Travis County Healthcare District d/b/a Central Health is a limited-purpose taxing district that is responsible for providing healthcare to indigent persons residing in Travis County, TX. Central Health is the recipient of a federal assistance award under the Health Center Program and fulfills its obligations as a public, Federally Qualified Health Center through CommUnityCare, which is both a 501.c.3 not-for-profit and a financially related entity to Central Health. Of note, much of the clinical system supported by CommUnityCare was operated by the City of Austin prior to 2009 when it was transferred to Central Health with CommUnityCare as the operator. Since assuming operational responsibility from the City of Austin, the number of unduplicated patients has increased from about 55,000 served in 2009 to current level of 96,000 patients plus served in 2017.

II. INSTRUCTIONS TO BIDDERS

The following describes the requirements and procedures necessary to provide a bid for this project.

A. General and Administrative Information

1. The Party requests bids from qualified contractors to renovate parts of an existing building, Southeast Health and Wellness Center (SEHWC). Project location is 2901 Montopolis Drive, Austin, TX 78741. The project includes two sub projects requiring separate costs tracking and applications (Preliminary Schedule of Value) for payment. Both projects will be awarded to a single contractor. Sub project 1, Convenient Care work consist of, but not limited to, the addition of 7 exam rooms, LAB work room, Intake and Triage and Waiting area in a formerly open office space. Sub project 2, Blackstock work consist of, but not limited to, addition of 4 exam rooms, new walls, doors and frames and finishes shall match existing finishes. It is the intent that the new construction be indistinguishable from the existing construction.
2. Bids are due promptly at 2:00 P.M. CST, **10/23/18. Late bids will be refused and returned to the Bidder.** Bids must be delivered to CommUnityCare, Attn: Purchasing Manager, 2115 Kramer Lane, and Austin TX 78758. Please also include a return address on the outside of the bid package.
3. The schedule and milestones for this IFB are located in the “Notice to Bidder section of this IFB. These dates are for general information only and may be subject to change. CommUnityCare requires bidders to attend the Mandatory Pre-Proposal meeting as noted on the “Notice to Bidder”. Bidders will be required to sign in as proof of attendance. Nonattendance to the Mandatory Pre-Proposal meeting may disqualify the bid proposal.
4. Bidders are requested to notify CommUnityCare of any ambiguity, inconsistency or error that they discover upon examination of the Bidding Documents. Bidders requiring information, clarification or interpretation of the Bid Documents must submit questions **by email to: tena.southwell@communitycaretx.org no later than 5:00PM CST on the date stated in the “Notice to Bidder”, Questions Due.** Any interpretation, correction or change in the Bidding Documents will be made by an Addendum. Interpretations, corrections or changes in the Bidding Documents in any other manner will not be binding, and Bidders shall not rely upon such interpretations, corrections and changes. Addendums will be placed on BidSync and ESBD web sites.

BidSync - <https://www.bidsync.com/community-care>

ESBD - <http://esbd.cpa.state.tx.us/>

5. All Inquiries regarding this Invitation to Bid must be directed to the CommUnityCare Purchasing. Received bids will be publicly opened and read aloud at the above-mentioned addressed location. **Note:** The Time-Date Stamp Clock located at the front reception desk of the CommUnityCare Administration Building will serve as **the OFFICIAL CLOCK** for the purpose of verifying the date and time of receipt of bids. All bids must be received by the due date and time to be considered. CommUnityCare will not be responsible for delivery delays resulting from the need to transport a bid from another location, or error, or delay on the part of any carrier.
6. More than one bid involving an individual, firm, partnership, corporation, or any combination thereof, as a principal, under the same or different names will not be considered. Reasonable basis for believing that any individual, firm, partnership, corporation, or combination thereof is a principal in more than one Bid for the Work

contemplated may cause the rejection of all Bids in which such individual, firm, partnership, corporation, or combination thereof is a principal. Any or all bids will be rejected if there is reason to believe that collusion exists among the Bidders, participants in such collusion will not be considered in future bids for the same work. Bids in which the prices are obviously unbalanced may be rejected. Bidders may also be disqualified and their bids not considered for any of the following specific reasons: The Bidder has an interest in any litigation against CommUnityCare, the Bidder is in arrears of any existing contract or has defaulted on a previous contract, the Bidder is involved in other, not yet completed projects which, in the judgment of CommUnityCare will prevent or hinder the prompt completion of additional work if awarded or the Bidder has an unacceptable safety record. Contractors are required to submit their Experience Modification Rate (EMR) for the last three (3) years on Attachment D, Acknowledgement of Receipt form.

7. All received bids, including attachments, supplementary materials, addenda, etc., shall become the property of CommUnityCare and will not be returned to the Bidder.
8. Compensation will not be provided to Bidders for any expenses they incur as part of the proposal process.
9. Historically Underutilized Businesses, including contractors, subcontractors, and suppliers, are encouraged to participate in this project consistent with the goals of the Board of Managers of CommUnityCare. Contractors will be required to comply with all applicable Equal Employment Opportunity laws and regulations, all Federal, State, and local regulations for construction safety and health standards and prevailing wage rates.
10. To enable CommUnityCare to evaluate the competency and financial responsibility of a bidder, the low bidder shall, when requested by CommUnityCare, furnish the following information:
 - a. The address and description of the bidder's plant and place of business.
 - b. The name and/or articles of co-partnership or incorporation.
 - c. An itemized list of equipment available for use on the project.
 - d. A certified or authenticated financial statement, dated within sixty (60) days prior to the opening of bids. CommUnityCare may require that any items included in such statements be further verified.
 - e. A list of present contracts, including dollar values, percentage of completion, and the names of all owners involved.
 - f. A statement regarding any past, present, or pending litigation with an owner.
 - g. Such additional information as may be required that will satisfy CommUnityCare that the bidder is adequately prepared in technical experience, or otherwise, to fulfill the contract.
11. Bid/Cost Offer must be firm and guaranteed for Ninety (90) calendar days from the IFB due date as outlined on the "Notice to Bidder".
12. The Bidder may change a bid price entered in a bid before it is submitted by changing the price and initialing the revision with ink. In cases where the bid has been submitted, the Bidder may change a bid price in the bid provided the request to do so is submitted in writing and is in the hands of the CommUnityCare Purchasing Manager

no later than 2:00 P.M. CT on the bid closing date. A request by telephone or fax for a change in the unit bid price will not be considered.

13. A Bidder may withdraw the bid provided the request in writing to do so is in the hands of the CommUni8tyCare Purchasing Manager by the date and time set for opening of bids. A request by telephone or fax for withdrawal of a bid will not be considered.
14. After a contract is awarded, the proposals may presumed to be public information under the Texas Public Information Act unless the Office of the Attorney General determines otherwise. If an entity believes that any of its submitted response to the IFB is exempted from disclosure under the Texas Public Information Act, the entity must mark that portion or portions as "confidential". Upon receiving a request for information related to a submitted response to the IFB, CommUnityCare will submit to the Office of the Attorney General only that information that an entity has marked "confidential". That information will remain confidential only if so determined by the Office of the Attorney General.
15. Protests must be submitted in writing to the Purchasing Department no later than ten (10) calendar days after contract award by CommUnityCare. The Purchasing Department shall rule on the protest in writing within ten (10) calendar days from date of receipt.

Any appeal of the Purchasing Department's decision must be made within ten (10) calendar days after initial protest decision is rendered. Appeals shall be submitted to the Purchasing Department, who shall present the matter for final resolution to CommUnityCare's CEO or designee.

Appellant shall be notified of the time and place the appeal is to be heard by CommUnityCare and afforded an opportunity to present evidence in support of the appeal. CommUnityCare's decision is final.

B. EXAMINATION OF THIS IFB, INCLUSIVE OF DOCUMENTS AND WORK SITE

1. Before submitting a bid, the bidder shall carefully examine the bid form, plans, drawings, specifications, bidding requirements and Scope of Work (Contract Documents). The bidder is encouraged to examine the work sites and fully understand the conditions expected to be encountered relating to the character, quality, and quantity of work to be performed and materials/equipment to be furnished. The submission of a bid by bidder shall be conclusive evidence that the bidder has complied with these requirements.
2. Drawings and specifications are located in Attachment B of this IFB
3. The sole point of contact for inquiries is CommUnityCare's Purchasing Department as identified in the "Notice to Bidder". Respondents should not contact individual Party Board Directors, CEO, architect, or staff regarding this solicitation. Such contact may result in disqualification of the Respondent initiating the contact.

C. **Bid Submission Requirements**

1. **Scope of Work**. Bidders should review Attachment A, Scope of Work carefully and fully understand the conditions expected to be encountered relating to each site location. (Cite all attachments)
2. **Price Sheet (Must Return)**. The Bidder **must** submit two separate bids; one for each project, on the Pricing Worksheet ("Price Sheet"), Attachment B. The Price Sheet must be executed with ink.
 - a. **Taxes**. Bid prices are not to include sales tax on materials to be incorporated into the projects or completely consumed at the job site and services required by or integral to the performance of the contract, as and to the extent provided in Texas Tax Code, Section 151.311 [c].
3. **Acknowledgement of Receipt Form (Must Return)**. Bidders must complete Attachment C, Acknowledge of Receipt Form in ink with the complete and correct name of the individual, firm, corporation, or combination thereof submitting the bid and shall be signed by the person or persons authorized to bind the individual, firm, corporation, or combination thereof. In cases of discrepancy between the price written in words and the price written in numerals, the price written in words shall govern. If applicable, the bidder shall submit a unit price for each item for which a unit price bid is requested. Bid prices are not to include sales tax on materials to be incorporated into the project or completely consumed at the job site and services required by or integral to the performance of the contract, as and to the extent provided in Texas Tax Code, Section 151.311 [c]. The bid shall be executed with ink in the complete and correct name of the individual, firm, corporation, or combination thereof submitting the bid and shall be signed by the person or persons authorized to bind the individual, firm, corporation, or combination thereof.
 - a. Bids may be rejected, if they contain any alteration of words or figures, additions not called for, conditional or uncalled for alternate bids, incomplete bids, any alteration of words or figures or erasures not initialed by the person or persons signing the bid or irregularities of any kind.
 - b. By completing and signing the Acknowledgement of Receipt Form, Attachment C, Bidder certifies that;
 - it is not under suspension or debarment by any governmental entity (local/state/federal government), is not delinquent on county taxes or in bankruptcy;
 - does not boycott Israel and will not boycott Israel during the Contract Term.
 - declare its HUB status;
 - acknowledges addendums;
 - identifies any exceptions or deviations exceptions in the stated contract terms and conditions;
 - carries the required insurance; and
 - acknowledges litigation history if any.
4. **References**. The Bidder (**Must Return**) a list of three (3) references of projects completed during the previous twelve (12) months, including the name of the project,

contract cost, names of all owners involved and contact person with address, phone number and email address.

5. **Conflict of Interest (Must Return)**. Pursuant to the Party's Conflict of Interest Policy, no individual at CommUnityCare or Central Health may enter into any employment, transaction, or other arrangement that may cause to be perceived to cause a conflict of interest. A potential for a conflict of interest may occur when an employee, or a member of an employee's family, holds an interest in an entity, has an employment or other financial arrangement with any business or entity that conducts or seeks to conduct business, or could be in competition, directly or indirectly with CommUnityCare or Central Health. The acceptance of gifts or business courtesies from any third parties with whom The Party conducts business or who are seeking to do business with the Party may pose a conflict. Bidder must complete, sign and return the Conflict of Interest Form, Attachment H.
6. **HUB (Must Return)**. Submission of Historically Underutilized Business (HUB) Form. All Bidders are requested to complete the HUB Form and provide it with their bid, Attachment G.
7. **EMR (Must Return)**. All Bidders are requested to complete the Safety Record Questionnaire and provide it with their bid along with documented proof of your EMR, Attachment E.
8. **Failure to file Certificate of Insurance**. Should the Contractor refuse or neglect to file Certificate of Insurance within seven (7) calendar days after written notification of the award of the contract to the CommUnityCare Purchasing Manager, the bid security filed with the bid shall become the property of CommUnityCare, not as a penalty, but as compensation for harm caused by Contractor's failure to comply with this IFB, which harm would be impossible or very difficult to accurately estimate at the time of award. Contractor agrees that the security amount is a reasonable estimate of the anticipated or actual harm that might arise from its failure to timely submit its Certificate of Insurance. Contractor's relinquishment of its security is its sole liability and the Party's exclusive remedy for Contractor's failure to timely file its Certificate of Insurance. Continued failure to deliver the Certificate of Insurance shall be grounds for CommUnityCare to declare Contractor in default and to terminate the contract. A Bidder, who forfeits his bid security in accordance with this paragraph, will not be considered in future bids for the same work unless there has been a substantial change in the design of the project subsequent to the forfeiture of the bid security.
9. **Certificate of Secretary**. Certificate of Secretary is required to be completed by Bidders, which are corporations.
10. **Statement of Qualification (Must Return)** - Contractor shall have a minimum of five (5) years' experience performing same or similar scope of work.. Contractor's experience must have been performed as an established business, under their current business name, not as a subcontractor for, or employee of another established business.
11. **Bid Security (Must Return)**. A bid security in the amount of five percent (5%) of the total bid amount will be required.

III. AWARD OF THE CONTRACT

A. Consideration Of Bids

1. For the purpose of award, after the bids are opened and read, the summations will be compared and the results made available to the public. Until the award of the contract is made, CommUnityCare reserves the right to reject any or all bids, or any particular bid items, and to waive such technicalities as may be considered in the best interest of CommUnityCare.
2. In determining the amount of the bid as well as computing the amount due for payment of each item under the contract, CommUnityCare reserves the right to round all bids to the nearest whole dollar
3. CommUnityCare may reject a bid if it is not satisfactory to the Board of Directors of CommUnityCare, CommUnityCare staff.
4. CommUnityCare may reject all bids and re-advertise, if appropriate, whenever it is deemed in the best interest of CommUnityCare. CommUnityCare may reject any part of a bid unless the bid has been qualified as "all or none".

CommUnityCare reserves the right to:

- Reject any or all bids and discontinue the IFB process without obligation or liability to any Respondent;
 - Waive any defect, irregularity, or informality in any bid submittal;
 - Accept a bid other than the lowest bid submittal;
 - Award a contract on the basis of initial bid received without discussions;
 - Request additional information or clarification from Respondents, which information may vary by Respondent;
 - Request best and final offers from any or all Respondents;
 - Accept bids from one or more Respondents;
 - Procure the items in whole or in part by other means;
 - Award more than one contract; and
 - Not award any contract.
5. After bid opening and before award, CommUnityCare may perform a pre-award survey of the Bidder's facilities and equipment to be used in the performance of work under this solicitation. Bidder agrees to allow all reasonable requests for inspection of the Bidders facilities with two (2) days advance notice.
 - a. CommUnityCare may make such investigations as it deems necessary to determine the ability of the Bidder to perform the work, and the Bidder shall furnish to CommUnityCare all such information and data for this purpose as CommUnityCare may request. CommUnityCare reserves the right to reject any bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy CommUnityCare that such Bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated herein.
 6. The award of a contract, if made, will be based upon the most responsive, responsible bid that is the most advantageous to CommUnityCare as determined by

CommUnityCare in its sole discretion. The award, if made, will take place within thirty (30) days after the opening of the bid.

7. If two responsible Bidders submit the lowest and most responsive, responsible bid, the Board of Managers of CommUnityCare will decide between the two by drawing lots in a manner prescribed by the CEO.
8. Return of Bid Bond or Bid Security. If applicable, bid bond or bid security of the three lowest Bidders may be retained until after a contract has been awarded, executed, and the required bonds furnished. Bid security of all except the three lowest Bidders will be returned within five (5) days after the bids are opened.
9. Execution of Contract, Bonds and Certificate of Insurance. This Bid document, attachments, addendums, Bidders completed forms and supporting documents and Purchase Order will become part of and be considered the Contract. Also within those seven days, the Bidder shall furnish to CommUnityCare a Certificate of Insurance, naming CommUnityCare as additional insured, showing coverage's in accordance with contract requirements.
10. Award and Approval. The Party will request separate contracts for each entity. The contracts will be approved and signed under authority of the Board of Managers of the Central Texas Community Health Centers d/b/a CommUnityCare and Travis County Healthcare District d/b/a Central Health.
11. Bonds. Within seven (7) calendar days of written notification of award of the contract, the notified contractor shall furnish to CommUnityCare a performance bond (for contracts in excess of \$100,000) and a payment bond (for contracts in excess of \$25,000). The bonds must be executed by a surety company or surety companies authorized to execute surety bonds under and in accordance with the laws of the State of Texas. If payment bond and/or performance bond is required, Bidder shall furnish as required under Government Code 2253.001.
 - b. Payment Bond. A Payment Bond is required in the amount of one hundred percent (100%) of the contract amount, if the contract amount exceeds \$25,000..
 - c. Performance Bond. A Performance Bond is required in the amount of one hundred percent (100%) of the contract amount if the value exceeds \$100,000.
12. The Contractor shall commence work upon issuance of a written "Notice to Proceed" by the Purchasing Department prior to beginning construction.

IV. GENERAL TERMS

- A. **Construction Agreement.** The contract between CommUnityCare, Central Health and a Bidder will follow the format specified by the Party and contain the terms and conditions set forth in Attachment O, "Construction Agreement", and General Conditions, Attachment P (together "Terms and Conditions"). The contents of this IFB, as revised and/or supplemented, and the successful Bidder's proposal will be incorporated into and become part of the contract. Should a Bidder object to any of the Party's terms and conditions, as contained in this IFB or in Attachments, that Bidder must propose specific alternative language by completing Attachment C, Acknowledgement of Receipt Form. CommUnityCare may or may not accept the alternative language. General references to the Bidder's terms and conditions or attempts at complete substitutions are not acceptable to the Party and will result in disqualification of the Bidder's proposal. Bidders must provide

a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

- B. **Use of Electronic Versions of this IFB.** This IFB is being made available by electronic means. If accepted by such means, the Bidder acknowledges and accepts full responsibility to ensure that no changes are made to the IFB. In the event of conflict between a version of the IFB in the Bidder's possession and the version maintained by CommUnityCare, the version maintained by CommUnityCare shall govern.
- C. **Firm Fixed Pricing.**
1. For unit priced items, all of the items listed are to be on a "per unit" basis, stating a firm price per unit or unit quantity of each item. This price must be good from the date of bid opening for a period of ninety (90) days.
 2. Bids which do not state a fixed price, or which are subject to change without notice, will not be considered. CommUnityCare may award a contract for the period implied or expressly stated in the lowest and best bid, but for no longer than the fiscal year.

Attachment A

Scope of Work

The SEHWC remodel and renovation project includes the addition of a Convenient Care Clinic in a formerly open available space, plus the remodel of several locations within the treatment areas of SEHWC. New walls, doors and frames, storefronts, and finishes shall match existing with the exception that new walls will terminate at the ceiling rather than at the deck. It is the intent that the new construction be indistinguishable from the existing construction.

Hours of work at the SEHWC Building are 7am-6pm, Monday through Friday, and evening meetings as scheduled.

Contractor will keep construction areas mostly “self-contained”. The new exam rooms for Blackstock will create their own perimeter, as will the renovation of the current meeting rooms. Similarly, most convenient care work will be limited to within the existing community room.

There will be above ceiling connections for plumbing and/or electric outside these areas and these can occur off hours.

CommUnityCare shall make shop drawings for existing doors, frames, storefront, hardware, carpet, ceilings, other finishes, electrical and fire protection available to general contractor for informational purposes.

Locksets for new doors shall be provided by CommUnityCare and installed by general contractor. General contractor shall furnish and install all other hardware as required.

All mechanical work shall be provided by a mechanical contractor that will be hired directly by CommUnityCare. CommUnityCare will facilitate coordination between general contractor and this mechanical contractor.

General contractor shall provide a schedule of construction for approval by CommUnityCare.

Attachment B
Drawings and Specifications List
See separate pdf documents

Attachment C Price Sheet

Sub project 1 - Convenient Care

Preliminary Schedule of Values

Bid Value

Division 1 - General Conditions	
Division 3 - Concrete	
Division 4 - Masonry	
Division 5 - Metals	
Division 6 - Wood, Plastic and Composites	
Division 7 - Thermal and Moisture Protection	
Division 8 - Openings	
Division 9 - Finishes	
Division 10 - Specialties	
Division 11 - Furnishings	
Division 21 - Fire Suppression	
Division 22 - Plumbing	
Division 23 - Heating, Ventilating and Air Conditioning	
Division 26 - Electrical	
Division 27 - Communications	
Division 28 - Electronic Safety and Security	
Insurance	
Bonds	
Overhead and Profit	

Total Bid	\$	-
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Overhead and Profit Rate (Percent %)

Project Completion - Days

Attachment C, cont.
Price Sheet

Sub project 2 - Blackstock

Preliminary Schedule of Values	Bid Value
Division 1 - General Conditions	
Division 3 - Concrete	
Division 4 - Masonry	
Division 5 - Metals	
Division 6 - Wood, Plastic and Composites	
Division 7 - Thermal and Moisture Protection	
Division 8 - Openings	
Division 9 - Finishes	
Division 10 - Specialties	
Division 11 - Furnishings	
Division 21 - Fire Suppression	
Division 22 - Plumbing	
Division 23 - Heating, Ventilating and Air Conditioning	
Division 26 - Electrical	
Division 27 - Communications	
Division 28 - Electronic Safety and Security	
Insurance	
Bonds	
Overhead and Profit	
Total Bid	\$ -
Overhead and Profit Rate (Percent %)	
Project Completion - Days	

Attachment D
Acknowledgement of Receipt Form

NOTE: BIDDER SHALL COMPLETE AND RETURN THIS ATTACHMENT (all pages) WITH THEIR BID. FAILURE TO DO SO WILL RESULT IN DISQUALIFICATION OF THE OFFER.

By signature hereon, the Respondent certifies that:

All statements and information prepared and submitted in the response to this IFB are current, complete and accurate.

He/she has not given, Offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response. Failure to sign the Acknowledgement of Receipt From or signing it with a false statement shall void the submitted Offer or any resulting contracts.

Neither the Respondent or the firm, corporation, partnership, or institution represented by the Respondent or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State, codified in Section 15.01, et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the Offer made to any competitor or any other person engaged in such line of business.

Respondent agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

Respondent represents and warrants that the individual signing this Execution of Offer is authorized to sign this document on behalf of the Respondent and to bind the Respondent under any contract resulting from this Offer.

Suspension, Debarment, and Terrorism: Respondent certifies that the bidding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.

Attachment D, continued
Acknowledgement of Receipt Form

In acknowledgement of receipt of this Invitation for Bid, the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Attachment Q.

The acknowledgement of receipt should be signed and returned Included with the Bidder's submittal.

Complete (Legal) Name of Bidder:_____

Bidder Tax Identification Number:_____

Business Address:_____

Telephone Number:_____

Type of Organization: ☐ Individual ☐ Partnership ☐ Corporation ☐ Association

☐ Other (please describe)_____

If incorporated, state of incorporation:_____

Date organization was formed (month/year):_____

Number of years providing services/systems similar to those requested in this IFB:_____

Description of Bidder's organization, locations, and number of staff (including subcontractors as applicable) that will provide services/support outlined in this IFB):

Please certify the following by placing an "X" in the appropriate column:

Certification	Yes	No
Is Bidder/Respondent currently in the process of filing for bankruptcy?		
Has Bidder/Respondent filed for bankruptcy within the past five (5) years?		
Do you certify that the Bidder/Respondent does not owe taxes to Travis County?		
Do you certify that the Bidder/Responder is not currently under suspension or debarment by any governmental entity (local/state/federal government)?		
Do you acknowledge that if the Bidder/Responder is currently under suspension or debarment, its submittal may not be considered?		

Acknowledged Addendums ____ of ____

Bid Price (including Contractor's fee, labor and material) in the amount of:

_____ Dollars and _____ Cents (\$ _____)

EMR – Insurance Rating

Year 1 _____

Year 2 _____

Year 3 _____

Individual authorized to bind Bidder to contract:

Name/Title: _____

Telephone: _____ E-mail: _____

Point of contact information for this IFB (if different from authorized individual):

Name/Title: _____

Telephone: _____ E-mail: _____

Bidder/Respondent HUB Declaration

Are you certified as a HUB or an MBE/WEB/DBE source? If yes,
Please attach your HUB certification

☐ Yes ☐ No**Contract Terms and Conditions**

The contract terms and conditions identified in the IFB will form the contract resulting from this IFB, and the Bidder /Respondent's submission will be incorporated into the contract. Please identify whether there are any requested exceptions or deviations.

☐ I do not request any exceptions or deviations to the stated contract terms.☐ I request the following exceptions or deviations to the stated contract terms.

Insurance:Do you carry professional liability insurance? ☐ Yes ☐ No

If yes, please identify the type/limits: _____

Do you carry errors and omissions insurance? ☐ Yes ☐ No

If yes, please identify the type/limits: _____

Litigation History:

Description of litigation to which the firm has been a party in the most recent five-year period. Please include the following details:

- 1) Name of case
- 2) Date filed
- 3) Court in which filed
- 4) Judgment or result

Important: The Bidder/Respondent must respond to all questions. The Bidder/Respondent may attach additional documents to the questionnaire to provide additional details.

Authorized Bidder Signature

Date

Attachment E
SAFETY RECORD QUESTIONNAIRE
(Must be submitted with bid form)

The Travis County Healthcare District desires to avail itself of the benefits of Section 262.0275 of the Local Government Code and thereby consider the safety records of potential contractors prior to awarding bids on contracts. Pursuant to Section 262.0275 of the Local Government Code, Travis County Healthcare District has adopted the following written definition and criteria for accurately determining the safety record of a bidder prior to awarding bids on contracts.

The definition and criteria for determining the safety record of a bidder for this consideration shall be:

If the bidder in response to the questions in this Questionnaire reveals more than two (2) cases in which final orders have been entered by the Occupational Safety and Health Review Commission (OSHRC) against the bidder for serious violations of OSHA regulations within the past three (3) years, Travis County Healthcare District will, at its discretion, determine whether to disqualify the bidder.

If the bidder in response to the questions in this Questionnaire reveals more than one (1) case in which bidder has received a citation from an environmental protection agency for violations within the past five (5) years, Travis County Healthcare District will, at its discretion, determine whether to disqualify the bidder. Environmental Protection Agencies include the U.S. Army Corps of Engineer (USACOE), the U.S. Fish and Wildlife Service (USFWS), the Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ), and its past associated agency: the Texas Natural Resource Conservation Commission (TNRCC), the Texas Department of Health, the Texas Parks and Wildlife Department (TPWD), the Structural Pest Control Board (SPCB), agencies of local governments responsible for enforcing environmental protection laws or regulations and similar regulatory agencies of other states of the United States. Citations include: notice of violation, notice of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders and judicial final judgments. Notice of Violations and Notice of Enforcement received from TCEQ shall include those classified as major violations and moderate violations under TCEQ'S regulations for documentation of Compliance History, 30TAC, Chapter 60.2 (c) (1) and (2).

If the bidder in response to the questions in this Questionnaire reveals that the bidder has been convicted of a criminal offense within the past ten (10) years which resulted in serious bodily harm or death, Travis County Healthcare District will determine whether to disqualify the bidder.

In order to obtain proper information from bidders so that Travis County Healthcare District may consider the safety records of potential contractors prior to awarding bids on District contracts, Travis County Healthcare District requires that bidders answer the following three (3) questions and submit them with their bids:

QUESTION ONE

Has the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of OSHA within the past three (3) years?

YES ☐

NO ☐

If the bidder has indicated YES for question number one above, the bidder must provide to Travis County Healthcare District, with its bid submission, the following information with respect to each such citation:

Date of offense, location of establishment inspected, category of offense, final disposition of offense, if any, and

penalty assessed.

QUESTION TWO

Has the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of environmental protection laws or regulations with the past five years? Citations include notice of violation, notice of enforcement, suspension/revocations of state or federal licenses, or registrations, fines assessed pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, judicial final judgments. Notice of Violations and Notice of Enforcement received from TCEQ shall include those classified as major violations and moderate violations under TCEQ'S regulations for documentation of Compliance History, 30TAC, Chapter 60.2 (c) (1) and (2).

YES ☐

NO ☐

If the bidder has indicated YES for question number two above, the bidder must provide to Travis County Healthcare District with its bid submission the following information with respect to each such conviction:

Date of offense, location where offense occurred, type of offense, final disposition of offense, if any, and penalty assessed.

QUESTION THREE

Has the bidder, or the firm, corporation, partnership, or institution represented by bidder, or anyone acting for such firm, corporation, partnership, or institution, ever been convicted, within the past ten (10) years, of a criminal offense which resulted in serious bodily injury or death?

YES ☐

NO ☐

If the bidder has indicated YES for question number three above, the bidder must provide to Travis County Healthcare District, with its bid submission, the following information with respect to each such conviction:

Date of offense, location where offense occurred, type of offense, final disposition of offense, in any, and penalty assessed.

ACKNOWLEDGEMENT

THE STATE OF TEXAS

COUNTY OF TRAVIS

I certify that I have made no willful misrepresentations in this Questionnaire nor have I withheld information in my statements and answers to questions. I am aware that the information given by me in this questionnaire will be investigated, with my full permission, and that any misrepresentations or omissions may cause my bid to be rejected.

Signature

Title

Attachment F

ENVIRONMENTAL COMPLIANCE RECORD QUESTIONNAIRE

Pursuant to Sections 262.0275 and 271.0275 of the Texas Local Government Code, the Travis County Healthcare District shall consider the environmental compliance record of the Bidders and may determine at its reasonable discretion the disqualification of any Bidder which in response to the following question reveals more than two (2) or more violations, with the severity and nature of the violations to be considered in the determination.

Has the Bidder, or the firm, corporation, partnership, or institution represented by Bidder, or anyone acting for such firm, corporation, partnership, or institution, received citations for violations of environmental laws within the past five years? Citations include, but are not limited to: notices of violation; suspensions/revocations of state/federal licenses or registrations; fines assessed; pending criminal complaints; indictments; convictions; deferred adjudications; administrative orders; draft orders; final orders; and final judgments. Any citations from the following agencies must be supplied: Environmental Protection Agency (EPA); Texas Commission on Environmental Quality or its past associated agencies such as the Texas Natural Resource Conservation Commission (TNRCC), the Texas Water Commission, and the Texas Air Control Board; and the Texas Department of State Health Services and its predecessor agency the Texas Department of Health. Also, include any citations from environmental regulatory agencies of other states of the United States.

YES ☐

NO ☐

If the Bidder has indicated YES, the Bidder shall provide to Travis County Healthcare District, with its bid submission, the following information with respect to each citation:

Date of Citation, location of establishment inspected, category of citation, final disposition of citation, and penalty assessed.

I certify that I have made no willful misrepresentations in this Questionnaire and that I have not withheld any information in my statements and answers to questions. I am aware that the information given by me in this questionnaire will be investigated, with my full permission, and that any misrepresentations or omissions may cause my bid to be rejected.

If the Bidder has indicated YES, the Bidder shall provide to Travis County Healthcare District, with its bid submission, the following information with respect to each citation:

Date of Citation, location of establishment inspected, category of citation, final disposition of citation, and penalty assessed.

I certify that I have made no willful misrepresentations in this Questionnaire and that I have not withheld any information in my statements and answers to questions. I am aware that the information given by me in this questionnaire will be investigated, with my full permission, and that any misrepresentations or omissions may cause my bid to be rejected.

Signature

Title

Attachment G Historically Underutilized Business (HUB) Form

The Central Texas Community Health Centers d/b/a CommUnityCare (“CommUnityCare”) policy is to include Historically Underutilized Businesses (HUBs) in its procurement process and to provide equal opportunities for HUB participation in the provision of supplies, services, equipment, and construction projects required by the CommUnityCare. As such, the CommUnityCare seeks to ensure that a “good faith effort” is made to assist certified HUB vendors and contractors in its award of contracts and subcontracts.

To be considered as a “Certified HUB Contractor/Vendor”, the contractor/vendor must have been certified by, and hold a current and valid certification, from any of the following certifying agencies recognized by the CommUnityCare: the Texas Building and Procurement Commission (State of Texas); City of Austin; and the Texas Unified Certification Program (TUCP), which includes six certifying agencies.

Suggested directories to assist Bidders in identifying potential HUBs to meet the CommUnityCare’s “good faith effort” requirement include **State:** <http://www.window.state.tx.us/procurement/prog/hub/>; **City:** www.ci.austin.tx.us/purchase/default.htm; and **TUCP:** www.dot.state.tx.us/business/tucpinfo.htm

Bidder HUB Declaration

Is your company certified as a HUB or an MBE/WBE/DBE source? ☐ Yes ☐ No. If yes,

1. **Attach your certification to this form and return it in the proposal; and**
2. Identify the certification agency by checking all that apply; ☐ Comptroller of Public Accounts, TPASS Division; ☐ City of Austin; ☐ Texas Unified Certification Program; and
3. Identify HUB Status (Gender & Ethnicity): _____

Subcontractor HUB Declaration

*****Please complete this section if your proposal includes the use of HUB Subcontractors. *****

Estimated percentage of the bid (proposal) that is to be subcontracted with Certified HUB sources: _

For each proposed HUB subcontractor, complete the information below and **attach the subcontractor’s HUB certification to this form and return it in the proposal.**

HUB Subcontractor Name	Contact Person/Title (First/Last Name)/Title	Telephone Number (including area code)	Email address (if available)

Attachment H

CONFLICT OF INTEREST QUESTIONNAIRE

Introduction and Purpose

- The bidder shall not offer or accept gifts or anything of value nor enter into any business arrangement with any employee, official or agent of CommUnityCare.
- By signing and executing this bid, the bidder certifies and represents to CommUnityCare the bidder has not offered, conferred or agreed to confer any pecuniary benefit or other thing of value for the receipt of special treatment, advantage, information, recipients' decision, opinion, recommendation, vote or any other exercise of discretion concerning this bid.

PLEASE COMPLETE FORM, SIGN AND RETURN WITH BID SUBMITTAL

Attachment H, cont'd
CONFLICT OF INTEREST QUESTIONNAIRE

Please answer the following questions to the best of your knowledge. Please print your responses and do not leave any questions blank.

1) Do you, a member of your family, or an entity in which you hold an interest (other than an interest of 1% or less in a publicly traded corporation), either own an interest in, or have an employment or other financial arrangement with, any business or entity that conducts or seeks to conduct business or is or could be in competition, directly or indirectly, with CommUnityCare?

Yes () No () If yes, describe: _____

2) Have you, a member of your family, or an entity in which you hold an interest (other than an interest of 1% or less in a publicly traded corporation), received any compensation, whether it be salary, sales commission, revenue, or return on investment, which was directly or indirectly derived as a result of business with CommUnityCare (excluding your regular employee compensation from CommUnityCare)?

Yes () No () If yes, describe: _____

3) Have you, a member of your family, or an entity in which you hold an interest (other than an interest of 1% or less in a publicly traded corporation), received from any business, entity or other outside person that conducts business with, seeks to do business with, or is or could be a competitor of CommUnityCare, any one-time gift or favor in excess of Fifty Dollars (\$50.00) in value, or multiple gifts or favors with a cumulative value in excess of Two Hundred Fifty Dollars (\$250.00) in a year? *For this purpose, please list vendor paid travel, gifts or other business courtesies with an aggregate value in excess of \$250 per year.*

Yes () No () If yes, describe: _____

4) Do you or a member of your family serve as a director, trustee, officer or any other fiduciary or key employee capacity for a non-[Company] corporation, partnership, or other business entity or organization that conducts or seeks to conduct business or that is or could be in competition, directly or indirectly, with [Company]?

Yes () No () If yes, describe (including name of entity, title and nature of the entity's business):

5) Are you, a member of your family, or an entity in which you hold an interest (other than an interest of 1% or less in a publicly traded corporation), engaged in any other activities which could be regarded as a potential conflict of interest with CommUnityCare?

Yes () No () If yes, describe:

6) To the best of your knowledge, did you or a member of your family, or an entity in which you hold an interest (other than an interest of 1% or less in a publicly traded corporation), benefit during the fiscal year, from any transaction involving CommUnityCare as a result of information or advice furnished by you either directly or indirectly?

Yes () No () If yes, describe:

Signature Statement

I have read the CommUnityCare Conflict of Interest Policy, and I understand and acknowledge its requirements. I agree to comply with the CommUnityCare Conflict of Interest Policy. I will deal honestly, fairly and with integrity in all matters related to CommUnityCare and will not use my position or knowledge gained to the detriment of CommUnityCare or to my personal benefit or the benefit of a member of my family or an entity in which I hold an interest. I hereby agree to report immediately in writing to the CommUnityCare Corporate Compliance Officer any new situation with the potential for a Conflict of Interest which may develop before the completion of my next annual Statement of Disclosure. The answers above are true and accurate to the best of my knowledge as of the date of this disclosure.

Name (please print or type)

Title:

Signature: Date:

Attachment I

CERTIFICATE OF SECRETARY
(Required for Bidders which are corporations)

I CERTIFY that:

I am the duly qualified and acting Secretary of _____,
[Name of Corporation]

a duly organized and existing corporation of the State of _____.
[Name of State]

The following is a true copy of a Resolution duly adopted by the Board of Managers of such corporation in a meeting legally held on the _____ day of _____, 20 ____, and entered in the minutes of such meeting in the minute book of the Corporation.

RESOLVED, that this corporation enter and that _____
, the [Insert Name of Person Executing Bid Form]

_____ of this corporation, is authorized and directed to execute on behalf of
and [Position with Corporation]

as the act of this corporation the Bid Form for the Central Texas Community Health Center d/b/a CommUnityCare

_____, Project # _____, together with all
associated [Insert Name and Number of Project]

documents and, should this corporation be the successful Bidder for that project, to execute on behalf of and as the act of the corporation all necessary documents to effect a written contract between this corporation and Central Texas Community Health Center dba CommUnityCare for the Construction of the Central Texas Community Health Center d/b/a CommUnityCare _____
, Project # _____ [Insert Name and Number of Project]

The Secretary is directed to attach a copy of the Bidding Documents to the minutes of this meeting and to make them a part of the corporate records.

The above Resolution is in conformity with the Articles of Incorporation and the Bylaws of the Corporation has never been modified or repealed and is now in full force and effect.

Date _____

Secretary _____

President _____

Attachment J
Vendor Confidentiality Agreement

Through your activities and services provided to CommUnityCare, you and/or your staff may have access to see or hear protected health information. Protected health information is defined as any information that identifies an individual (patient) and describes their health status, sex, age, ethnicity, or other demographic characteristics in any format (i.e., electronic, written, or oral). The protected health information is protected by federal and state law and by CommUnityCare's privacy policies. The intent of the laws and policies is to assure that protected health information remains confidential, and that it is used only to provide patient care and services.

Your duties, obligations and responsibilities with regard to confidentiality are described below in the form of an agreement with CommUnityCare. We require you and your staff to agree and abide by the terms of this agreement. Any violation may subject you and your staff to discipline, which may include termination of your agreement with CommUnityCare and legal liability to the patient and CommUnityCare. If you have any questions regarding this statement or agreement, please contact our Compliance Officer, Therese DeMay, at 512-978-9919.

Confidentiality Agreement

I, the undersigned agent for our company, agree to the following on behalf of our company and staff that may have access to your office as a result of the service we provide:

1. Our company and staff will safeguard and will not disclose information that could provide access to protected health information by persons outside of our company.
2. Our company and/or staff will report activities by any persons or entity that we suspect may compromise the confidentiality of protected health information. (Reports made in good faith about suspect activities will be held in confidence to the extent permitted by law, including the name of the individual reporting the activities.)
3. Our company and staff acknowledge that we will be responsible for any misuse or wrongful disclosure of confidential information and for any failure, on our part, to safeguard our means of access to confidential information. Our company and staff understand that failure to comply with this agreement may also result in termination of our vendor agreement and legal liability.
4. Our company will have a supervisor review and discuss this Confidentiality Agreement with each employee or staff member that provides services to CommUnityCare. The supervisor will also have the employee sign an Employee Confidentiality Agreement in the format provided by CommUnityCare.

(Company Name)

Name of authorized agent (please print)

Authorized agent's signature

Date

Attachment K

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____ as Principal (the "Principal"), and the other undersigned as Surety, are held and firmly bound to the Central Texas Community Health Center d/b/a CommUnityCare in the penal sum of _____ Dollars (\$ _____), lawful money of the United States, well and truly to be paid to the Central Texas Community Health Center d/b/a CommUnityCare, and we bind ourselves, our heirs, successors, executors, and administrators, jointly and severally, firmly by this document.

Whereas, the above bound Principal has entered into a contract with the Central Texas Community Health Center d/b/a CommUnityCare, for the purpose of _____, which is attached to this performance bond, and whereas, pursuant to TEX. GOV'T CODE ANN., Ch. 2253 Principal is required before commencing the work provided for in that contract to execute a bond in the amount of that contract.

The condition of this obligation is that if the above bound Principal, his or its heirs, successors, executors, and administrators shall well and faithfully do and perform each and every obligation required in the contract, in accordance with the Plans, Specifications, and Contract Documents, including warranties as provided for in the attached Contract, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Witness our hands this _____ day of _____, 20 ____.

Principal

Surety

By: _____

By: _____

Title: _____

Title: _____

Attest: _____

Attest: _____

*Note: If signed by an officer of the Surety Company, there must be on file a certified extract from the By-laws showing that this person has authority to sign such obligations. If signed by an Attorney-in-Fact, we must have a copy of the Power of Attorney for our files.

Surety Company Notice of Claim Information:

Name: _____

Mailing Address: _____

Physical Address: _____

Telephone Number: (_____) _____

Bond Number: _____

Attachment L

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____ as Principal (the "Principal"), and the other undersigned as Surety, are held and firmly bound to the Central Texas Community Health Center d/b/a CommUnityCare in the penal sum of _____ Dollars (\$ _____), lawful money of the United States, well and truly to be paid to Central Texas Community Health Center d/b/a CommUnityCare and we bind ourselves, our heirs, successors, executors, and administrators, jointly and severally, firmly by this document.

Whereas, the above bound Principal has entered into a Contract with the Central Texas Community Health Center d/b/a CommUnityCare for the purpose of _____, which is attached to this Payment Bond, and whereas, pursuant to TEX. GOV'T CODE ANN., Ch. 2253 Principal is required before commencing the work provided for in that Contract to execute a Bond in the amount of that Contract solely for the protection of all claimants supplying labor and materials as defined by law, in the prosecution of the work provided for in that Contract, for the use of each such claimant.

The condition of this obligation is that if the above bound Principal, his or its heirs, successors, executors, and administrators shall well and faithfully make payments to each and every claimant as defined by law, supplying labor and materials as defined by law, in the prosecution of the work provided for in the attached Contract, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Witness our hands this _____ day of _____, 20 ____.

Principal

Surety

By: _____

By: _____

Title: _____

Title: _____

Attest: _____

Attest: _____

*Note: If signed by an officer of the Surety Company, there must be on file a certified extract from the By-laws showing that this person has authority to sign such obligations. If signed by an Attorney-in-Fact, we must have a copy of the Power of Attorney for our files.

Surety Company Notice of Claim Information:

Name: _____

Mailing Address: _____

Physical Address: _____

Telephone Number: (_____) _____

Bond Number: _____

Attachment M
Prevailing Wage Rate Schedule – Tx 180278

Prevailing Wage Rates for Travis County can be obtained by clicking on the following link.

<https://wdol.gov/wdol/scafiles/davisbacon/tx278.dvb>

Attachment N
TEXAS WORKERS' COMPENSATION COVERAGE (TWCC)

The Texas Department of Insurance, Division of Workers' Compensation ("TDIDWC") has adopted Rule 110.110. Rule 110.110 applies to all building and construction contracts advertised for bid by a governmental entity on or after September 1, 1994. **Rule 110.100, and any amendments thereto, affects your bid on this project.**

Rule 110.110 is designed to achieve compliance from contractors, subcontractors, and governmental entities regarding workers' compensation insurance coverage. **This affects contractors, subcontractors, and The Party on this project.**

Providing false or misleading certificates of coverage, failing to provide or maintain required coverage, or failing to report any change that materially affects the coverage may subject the contractor(s) or other persons providing services on this project to administrative penalties, criminal penalties, civil penalties, or other civil actions. **This affects contractors and subcontractors.**

Therefore, the attached is provided in accordance with the requirements applicable to governmental entities as set forth in Title 28, Part 2, Section 110.110(c) of the Texas Administrative Code. Please read this carefully and prepare your bid in full compliance with TDIDWC Rule 110.110. Failure to provide the required certificates upon submission of a bid could result in your bid being declared non-responsive.

The Party does not believe that Rule 110.110 creates any additional duties or burdens on anyone, which Texas workers' compensation laws, rules, and regulations have not already established. **Therefore, The Party should not experience any increase in cost because of the need to comply with all Texas workers' compensation laws, rules, and regulations.**

Additional questions may be addressed to the Texas Department of Insurance, Division of Workers' Compensation Central Office, 7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1609, (512) 804-4000.

TDIDWC RULE 110.110 Workers' Compensation Insurance Coverage

A. Definitions:

Certificate of Coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the Project until the contractor /person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes 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 contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity, which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. 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, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. 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 governmental entity showing that coverage has been extended.

E. The Contractor shall obtain from each person providing services on the project, and provide to the governmental entity:

(1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity 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.

F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:

- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
- (2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
- (3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (4) obtain from each other person with whom it contracts, and provide to the contractor:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
- (6) notify the governmental entity in writing by certified mail or personal delivery, within 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 it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

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

K. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor, which entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

Attachment O
Construction Agreement

CONSTRUCTION AGREEMENT

This Construction Contract is made as of _____, 20____ (the "Effective Date"), by and between

The Owners:

Travis County Health District d/b/a Central Health
1111 East Cesar Chavez Street
Austin, Texas 78702
512 / 978-8000

Central Texas Community Health Centers d/b/a CommUnityCare
2115 Kramer Lane
Austin, Texas 78758
512-978-9016

And Contractor:

For the Project known as:

Contract Sum:

Project Architect/Engineer:

The Contractor is the person or entity identified as such in the Construction Contract and will be referred to as if singular in number and masculine in gender. The term Contractor means the Contractor or his authorized representative.

The Contractor agrees that:

The Contractor will, at all times, act in the best interests of the Owner and will be an "extension of the Owner's resources" for the timely, efficient, cost effective, quality conscious performance of the Work, as hereinafter defined. He will cooperate with the Owner and the Owner's Architect/Engineer and other consultants, and proactively work to eliminate conflicts between project participants and within the Work. He will provide without limit, all labor, materials, equipment and similar resources to ensure the most expedient and safe performance of the Work. He will attentively manage the construction budget and protect the Owner against cost increases, Project delay, and deficient work.

The Owner and Contractor agree as follows:

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CONTAINING MATERIALS OR WORK
- 16 MISCELLANEOUS PROVISIONS

CONTRACT ATTACHMENTS

- A Scope of Work
- B Schedule
- C Contract Sum and Cost Conditions
- D Insurance
- E Historically Underutilized Business
Requirements (HUB)
- F Disclosure of Interested Parties
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ARTICLE 1 - SCOPE OF WORK

- 1.1 The Contractor has overall responsibility for and will furnish all materials, equipment, tools, labor and similar items as necessary or reasonably inferable to complete the Work, or any phase of the Work, in accordance with the Owner's requirements and the terms of the Contract Documents.
- 1.2 The Contractor will fully execute the Work described in the Contract Documents, except work specifically indicated in the Contract Documents to be others' responsibility.
- 1.3 The Construction Contract will not be construed to create any contractual relationship of any kind between the Owner and any Subcontractor or Sub-subcontractor, as those terms are defined herein.
- 1.4 Construction will commence upon the date specified in a written Notice to Proceed, which will be issued by Owner after approval of the Contract Sum, and will continue until Final Completion of all Work. Construction may provide for Work phasing to provide cost or time advantage to the Owner and Project. Unless otherwise agreed, Contractor will not incur any Subcontractor costs for construction of the Work prior to Owner's issuing the Notice to Proceed.
- 1.5 The Scope of Work is further defined in Attachment A.

ARTICLE 2 - CONTRACT DOCUMENTS

- 2.1 The Contract Documents consist of:
 - 2.1.1 This Agreement and all exhibits and attachments listed, contained or referenced in this Agreement, Owner's supplemental scope of work requirements, definitions or clarifications, and Contractor's Proposal;
 - 2.1.2 General Conditions for Owner Construction Contracts (GCs), if attached and as applicable;
 - 2.1.3 The Drawings, Specifications, scope definition and clarifications, details and other Construction Documents that have been accepted by Owner and developed by Architect/Engineer or Owner's other consultants to describe the Project;
 - 2.1.4 All Construction Documents' Addenda issued prior to the Effective Date of this Agreement;
 - 2.1.5 All Change Orders issued after the Effective Date of this Agreement;
 - 2.1.6 Contractor's material quality and conformance certifications executed during the Work construction;
 - 2.1.7 Construction Schedule and other documents identified per Contract; and
 - 2.1.8 Other documents and/or attachments included or made part of this Agreement.
- 2.2 The Contract Documents form the entire and integrated Contract between Owner and Contractor and supersede all prior proposals, negotiations, representations or agreements, written or oral.
- 2.3 The term "Contractor" will be interchangeable with the terms "General Contractor" or other similar terms as appropriate in the Contract Documents.
- 2.4 Documents Use and Ownership.
 - 2.4.1 Drawings, specifications, and other documents prepared by the Architect/Engineer, its consultants, or other consultants retained by the Owner for the Project that describe the Work to be executed by the Contractor (the "Construction Documents") are instruments of service and will remain the property of the Owner whether the Project for which they are made is executed or not. The Contractor will be permitted to retain one record set of the Construction Documents. All other copies of the Construction Documents will be returned to the Owner as required, or will otherwise be suitably accounted for or destroyed. The Contractor and its Subcontractors are authorized to reproduce and use portions of the

Construction Documents as necessary and appropriate for the execution of the Work. The Contractor and its Subcontractors will not use the Construction Documents on any other projects.

- 2.4.2 Submission or distribution of the Construction Documents to meet official regulatory requirements or for other purposes in connection with the Project will not diminish the Owner's rights.

ARTICLE 3 – COMMENCEMENT AND SUBSTANTIAL COMPLETION DATES

- 3.1 TIME LIMITS STATED IN THE CONTRACT DOCUMENTS ARE OF THE ESSENCE.
- 3.2 Unless otherwise approved, the Owner and the Contractor will perform their respective obligations under the Contract as expeditiously as is consistent with reasonable skill and care and the orderly progress of the Work.
- 3.3 The Commencement Date of the Work will be established per Owner's Notice to Proceed issued to Contractor.
- 3.4 Contract Time will be measured from the Commencement Date. The Project Work will be performed as directed by the Contractor to complete the Work within the specified Contract Time unless otherwise provided by Contract Documents.
- 3.5 Substantial Completion.
- 3.5.1 The date of "Substantial Completion" of the Work or designated portion thereof is the date accepted by the Owner as the date when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner can occupy the building or utilize the Work or designated portion thereof for the use for which it is intended. A Certificate of Occupancy or Temporary Certificate of Occupancy, issued by the governing authority, is required for Substantial Completion unless waived by the Owner.
- 3.5.2 The Contractor will achieve Substantial Completion of the entire Work not later than the date stated in Exhibit B - Schedule, subject to the timely receipt of a general building permit and approvals required for the execution of the Work, and subject to adjustments of the Contract Time as provided in the Contract Documents.
- 3.5.3 Substantial Completion will require without limitation, that: i) all systems and parts required for occupancy are functional; ii) all utilities necessary for occupancy are connected and operating in accordance with Contract Documents; iii) all permits required for occupancy have been issued including, but not limited to a Temporary or final Certificate of Occupancy or jurisdictional equivalent as applicable; iv) normal vehicular and pedestrian traffic routes to the Project are not obstructed by Contractor's operations; and v) Architect has performed its inspection of the Work or designated portion thereof and determines the Work to be complete, which determination will not be unreasonably withheld. Upon the occurrence of the above, the Project or designated portion thereof will be deemed Substantially Complete and, the Architect will issue a Certificate of Substantial Completion for the designated portion or whole of the Work. Warranties called for by the Contract Documents will commence on the Date of Substantial Completion of all the Work. Within two (2) weeks of Substantial Completion, a "punch list" will be established by the Owner, Architect, and Contractor that lists all items of the Work or designated portion thereof to be completed or corrected. Contractor will complete all items listed on the "punch list" within thirty (30) days of the date of Substantial Completion provided such items are reasonably capable of being completed within this time frame.

- 3.5.4 Liquidated Damages. Should the Contractor fail to meet the date for Substantial Completion as set forth in Exhibit B, subject only to adjustments of the Contract Time as provided in the Contract Documents, the Contractor will, as Liquidated Damages and not as a penalty, be liable to Owner for the Liquidated Damages established in Exhibit C. Owner will be able to deduct the amounts due under this Section from any payment that may become due to the Contractor. Should the Liquidated Damages amount due from Contractor to Owner exceed the amount otherwise due or payable to Contractor by Owner, Contractor will promptly pay to Owner, the balance of Liquidated Damages. In the event that Contractor fails to achieve Substantial Completion of the Work, then, if Owner has previously accepted designated portion(s) of the Work, any Liquidated Damages payable by Contractor to Owner will be reduced by the following ratio: value of accepted Work relative to the total Contract Sum. Contractor agrees that, in addition to liquidated damages, Owner may exercise against Contractor any other right or remedy available under this Contract.

ARTICLE 4 – CONTRACT SUM & COST DETAIL

- 4.1 The Contract Sum is defined and described in the Agreement and, including authorized adjustments thereto, is the total amount payable by the Owner to the Contractor for performance of the Work. The Contract Sum is as defined in Exhibit C – Contract Sum and Cost Conditions.
- 4.2 Unit Prices, allowances, and alternates, if any, are listed in Exhibit C.
- 4.3 The Contract Sum is based upon laws, codes, and regulations enacted and effective as of the date of this Agreement.
- 4.4 The Contract Sum allows for and includes all services, items, and work required for the complete and correct performance of the Work.
- 4.5 Liquidated damages, if any, are as defined in Exhibit C.
- 4.6 NOTE: Unit prices and/or labor rates included in subcontracts will not be binding on the Owner unless the Owner specifically approves such rates prior to subcontract award. Contractor will perform due diligence necessary to ensure that unit rates do not include “latent” overhead and profit, and are typical for the work and the local construction market.

ARTICLE 5 - BONDS AND INSURANCE

- 5.1 Unless otherwise waived by Owner, Contractor will provide a security bond in form acceptable to Owner in the amount of 5% of the Agreement value. The surety for a security bond will meet the same requirements as set forth for payment and performance bonds.
- 5.2 Upon acceptance by Owner of Contractor’s Contract Sum, Contractor will provide performance and payment bonds on forms prescribed by Owner and in accordance with Contract Documents. The penal sum of the payment and performance bonds will be equal to the Contract Sum. If construction is phased or staged or equipment is ordered in advance with Owner approval, the penal sum of the bonds will be increased at the start of each stage or phase based on the cumulative total value of all interim sums.
- 5.3 All subcontracts or vendor contracts of \$25,000 value or greater will provide performance and payment bonds.
- 5.4 Insurance.

- 5.4.1 The Contractor will not physically commence work on the Project site until it has obtained all required insurance and until evidence of the required insurance has been reviewed and approved by the Owner. Owner's review of the insurance will not relieve nor decrease the liability of the Contractor. Prior to commencing any work under this Agreement, Contractor will provide evidence of the following insurance coverages:
- 5.4.1.1 Employer's Liability, Workers' Compensation, Comprehensive General Liability, and Comprehensive Automobile Liability in the amounts prescribed per Contract Documents and as listed in Attachment P, General Conditions, Section 11, Insurance.
 - 5.4.1.2 Builder's Risk and Owner's Protective Liability in the amounts prescribed per Contract Documents unless otherwise agreed or obtained directly by Owner.
 - 5.4.1.3 Prior to commencing any construction work, Contractor will provide evidence of Builder's Risk coverage, which coverage will remain in full force and effect throughout the term of the Project and will be increased as necessary for each phase or change order.
 - 5.4.1.4 Contractor will include required insurance information in subcontractor/trade packages and indicate on bid/proposal forms the insurance that bidders/proposers are to include in their proposals.
 - 5.4.1.5 Contractor will not cause or allow any of its required insurance to be canceled nor permit any insurance to lapse during the term of the Agreement. If the Contractor fails to obtain, maintain, or renew any insurance required by the Agreement, the Owner may obtain insurance coverage directly and recover the cost of that insurance from the Contractor.
 - 5.4.1.6 Owner reserves the right to review the insurance requirements set forth in this Article during the term of this Agreement and to make reasonable adjustments to the insurance coverages and their limits when deemed necessary and prudent by the Owner following a change(s) in statutory law, court decisions, or the claims history of the industry as well as the Contractor.
 - 5.4.1.7 Owner is entitled, upon request and without expense, to receive complete copies of the insurance policies with all endorsements and may make any reasonable requests for deletion, or revision or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation binding upon the Parties or the underwriter of any of such policies. Damages caused by the Contractor and not covered by insurance will be paid by the Contractor.
 - 5.4.1.8 The cost of premiums for any additional insurance coverage desired by the Contractor in excess of that required by the Contract Documents will be borne solely by the Contractor.

ARTICLE 6 – CONTRACT PAYMENTS

6.1 Construction Payments – General.

- 6.1.1 Owner will pay the Contractor the Direct Cost of the Work plus the Contractor's Fee, adjusted as applicable per Contract Documents. Contractor's Fee (or Profit) will be listed as a separate line item value in the Schedule of Values and all Applications for payment.

- 6.1.2 Contractor is not entitled to payment of a fee (mark-up) on either Bonds or Insurance provided by Contractor.
- 6.1.3 Additive changes in the Work will be calculated on the basis of the Direct Cost of the Work plus the percent allowed for Overhead and Profit and includes Contractor's Fee for changes that do not increase the Completion Time. Changes resulting in additional Time will be calculated on the basis of cost of the Work, plus the percent allowed for Overhead and Profit including Contractor's Fee. Contractor's percent fee for changes in the Work is as defined in Exhibit C. Contractor will not be entitled to additional General Conditions' costs to additive changes in the Work without their reasonable acceptance by Owner and Architect.
- 6.1.4 Deductive changes will be credited to the Cost of the Work only, excluding line item amounts that may only to be expended with Owner approval (e.g., Allowances).
- 6.1.5 If the Contractor is delayed in the progress of the Project by the willful negligence of the Owner or negligence of separate contractors employed by the Owner, by Owner's requested changes to the Project, by Owner's untimely execution of Change Orders, by binding labor disputes resulting in site closure or restricting access, or by weather conditions beyond those normally occurring at the Project site or provided for in the Schedule for the Work, including preparation for and results of same, fire, unusual delay in transportation, natural disasters, unavoidable casualties, jurisdictional delays, or any causes beyond the Contractor's control, then the Date of Substantial Completion may be extended at a rate of one (1) working day for each such Working Day lost due to the conditions stated herein.
- 6.1.6 Time extensions for Change Orders may entitle the Contractor to an adjustment in both time and price, as provided by this Agreement.
- 6.1.7 Allowances.
- 6.1.7.1 Items to be provided through Allowances will be clearly identified in the Construction Documents and the Contract Sum, and will be listed in Exhibit C. The Work to be provided via Allowances will be determined in accordance with Contract Documents and Owner agreement. Any claim by the Contractor for an adjustment to an Allowance amount will be made within a reasonable time after the issuance of the Construction Documents for the Allowance items. Contractor will not be entitled to any increase in its Construction Fee for increases to Allowance amounts that were initially based on estimates provided by the Contractor.
- 6.1.7.2 Allowances included by Contractor in the Contract Sum will be considered "line item" amounts and may not be expended by Contractor without Owner's prior approval or for any other costs of the Work.
- 6.1.7.3 Allowances will be reported and tracked individually in the Contractor's Schedule of Values and the Contractor's Applications for Payment(s).
- 6.1.7.4 Owner will be entitled to all unexpended Allowance amounts. The final Contract Sum will be reduced by deductive Change Order to include the value of unexpended Allowances plus a pro-rata share of the Contractor's Fee.
- 6.1.8 Cash discounts obtained on payments made by the Contractor will accrue to the Owner if (a) before making the payment, the Contractor included them in an Application for Payment and received payment from the Owner or (b) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts will accrue to the Contractor. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and

equipment will accrue to the Owner, and the Contractor will make provisions so that they can be obtained.

- 6.1.9 The Contractor will make provisions so that such discounts, rebates, refunds, and returns can be secured. Wherever possible, the Contractor will notify the Owner of the availability of discounts for prompt payment so that the Owner will have the opportunity to make such payments directly in order to receive the benefit of such discounts.
- 6.1.10 Amounts that accrue to the Owner in accordance with the provisions of this Article will be credited to the Owner as a deduction from the Cost of the Work.
- 6.1.11 The Contractor shall perform on the site, and with its own organization, work equivalent to at least Ten (10) percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government. As prescribed in FAR 36.501(b)

6.2 Construction Payments.

6.2.1 Schedule of Values

- 6.2.1.1 Before the first Application for Payment, as defined herein, the Contractor will submit to the Owner a schedule of values allocated to the various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, will be used as a basis for the Contractor's Applications for Payment.
- 6.2.2 Contractor will submit monthly Applications for Payment by the tenth (10th) day of the month for Work completed in the prior month. The period covered for each Application for Payment will be from the 1st to the last day of the month, inclusive.
- 6.2.3 The Contractor is only entitled to payment if all obligations of the Contractor under this Agreement, at the time any particular Application for Payment is received and/or due for payment, are satisfied. Owner will not be obligated to make any payment to Contractor if any of the following conditions exist: i) Contractor has failed to perform its obligations hereunder or otherwise is in default under this Agreement; ii) Contractor has failed to make payments promptly to Subcontractors or to suppliers for material or labor used in the Work for which Contractor has received payment (however, Contractor may withhold payment to Subcontractors for their non-compliance with terms of their subcontracts); or iii) Contractor has failed to furnish to Owner appropriate affidavits, lien releases and satisfactions from all Subcontractors and any other parties furnishing labor, services and/or materials, in performance of the Work, and any other documentation required by Owner to ensure a lien free Project for which Contractor has received payment. Owner will not be obligated to make a full payment to Contractor if all Work does not conform to the Contract Documents, in which case payment will be made only for the part thereof that does conform to the Contract Documents.
- 6.2.4 Contractor's Applications for Payment will be submitted in triplicate on properly completed AIA Forms G702 and G703 or an equivalent form acceptable to Owner and in executable electronic format (*MS Excel*). The Application will be based on the approved schedule of values for each Bid or Trade Package, the Contractor's Fee, General Conditions, Contractor's Contingency, Allowances, and any Change Orders. All columns on the AIA G702 and G703 Forms will be properly completed and reflect all corrections, if any, from the previous

month's Application for Payment. Supporting documentation, to include Subcontractor invoices, purchase orders, etc., will be submitted with each Application for Payment.

- 6.2.5 In each Application for Payment, Contractor will clearly identify and list all adjustments to the approved schedule of values to include without limit, changes in and between Allowances, Contractor Contingency, etc.
- 6.2.6 With each Application for Payment, the Contractor will submit properly completed AIA G702 and G703 Forms or their equivalent as accepted by Architect and Owner for each Subcontractor and vendor, attached to an appropriate Bid Package summary sheet, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence reasonably required by the Owner to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor less (2) that portion of those payments attributable to the Contractor's Fee plus (3) payrolls for the period covered by the present Application for Payment less (4) retainage, if any, applicable to prior progress payments. In addition, Contractor will also furnish a Contractor's Contingency summary with supporting documentation attached to it that reflects the transfer of funds to and from the Contingency, an Allowances summary with supporting documentation attached to it that reflects the expenditure of funds against Allowances, and a Change Order summary sheet for each Change Order with supporting documentation attached. Change Orders, if any, will be clearly identified, with a payment request for Change Order work listed individually against each Change Order and including any associated Contractor's Fee or General Conditions, and such other information, documentation, and materials as the Owner, the Architect, or any title insurer (if applicable) may reasonably require. Contractor's Applications for Payment will clearly include and list Owner's project number and other information as reasonably requested. Payment for approved Change Orders will be made as part of the Contractor's Application for Payment.
- 6.2.7 Payments to Subcontractors will be subject to retainage of not less than ten percent (10%) and/or as may be agreed with Owner. Owner and Contractor will agree to a process to review and approve Subcontractor Applications for Payment. Subject to Owner's approval and Lender's (if any) requirements, and provided that Subcontractors are not in default hereunder, upon completion of fifty percent (50%) of their respective work, retainage will be reduced to five percent (5%); for the duration of the Project. Retainage may be restored to an amount equal to ten percent (10%) of all progress payments if a Subcontractor subsequently fails to perform its work according to the requirements of the Contract Documents, or if any other circumstances or conditions described in the Contract Documents including General Conditions exist as would permit the Architect to decline to certify payment, . Such restoration will occur by deducting from the next progress payment an amount which, when added to retainage then withheld, will equal ten percent (10%) of all that Subcontractor's progress payments.
- 6.2.8 In the schedule of values for the Contractor and each Subcontractor, specific values acceptable to the Owner will be assigned for warranties, record documents, systems start-up, testing and commissioning, O&M manuals, and As-Built documents. Submission of these warranties, record documents, O&M manuals, As Built Documents, and completion of all testing, start up and commissioning is a requirement of the Contract Documents and payment in the assigned amounts identified in the Schedule of Values will not be made until the warranties, record drawings, O&M Manuals, and As-Built Documents have been approved by the Architect and received by the Owner, and the start-up, testing and commissioning completed to the satisfaction of the Architect and Owner.

- 6.2.9 Payments may be made on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site. If approved in advance by the Owner, payments may similarly be made for materials or equipment suitably stored at some other location agreed upon in writing. Payments for materials or equipment stored on or off the site will 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 or equipment or otherwise protect the Owner's interest, including applicable insurance and transportation to the site for those materials and equipment stored off site.
- 6.2.10 The Contractor warrants that title to all Work, materials, and equipment covered by an Application for Payment will pass to the Owner either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests, or encumbrances, hereinafter referred to as "liens"; and that no Work, materials, or equipment covered by an Application for Payment will have been acquired on the Contractor's behalf, or by any other person performing Work at the site or furnishing materials and equipment for the Project. Rather, the purchase will be on the Owner's behalf.
- 6.2.11 First payment will be made without Lien Waivers. Lien Waivers must accompany all subsequent Applications for Payment from the Contractor, its Subcontractors and their subcontractors, and suppliers for the principal portions of the Work covering one hundred percent (100%) of the amounts paid for the previous calendar months. All Lien Waivers must show the amounts paid and be in a format and include content acceptable to Owner. All Lien Waivers must be originals and signed in order to be valid. Owner may withhold payment of amounts associated with incomplete or incorrect Lien Waivers.
- 6.2.12 Each Schedule of Values submitted with an Application for Payment will include the originally established value for each work classification line item or subcontract and will identify any Owner approved revisions to the costs for each work classification or subcontract. Work classifications/divisions will follow and be based on CSI work divisions. Schedule of Values will not be adjusted without Owner approval, such approval not unreasonably withheld. The format and tracking method of the original schedule of values and of all updates will be subject to approval by the Owner. At all times, the estimated cost of performing the uncompleted and unpaid portion of the Work, including Contractor's Fee, will not exceed the unpaid balance of the Contract Sum less retainage on Work previously completed.
- 6.2.13 No partial payment made by the Owner will constitute, or be construed to constitute, final acceptance or approval of the work to which the partial payment relates or of the documentation provided in support of the partial payment. No partial payment made by the Owner will constitute, or be construed to constitute, a release of Contractor from any of its obligations or liabilities with respect to the Work.
- 6.2.14 Owner will have the right to verify and audit the details of Contractor's billings, certificates, accountings, cost data, and statements, either before or after payment, by (1) inspecting the books and records of Contractor during normal business hours; (2) examining any reports with respect to this Project; (3) interviewing Contractor's employees; (4) visiting the Project site; and (5) any other reasonable action. Contractor's records will be kept on the basis of generally accepted accounting principles (GAAP) in accordance with cost accounting standards issued by the Financial Accounting Standards Board and organized by each Application for Payment period.

- 6.2.15 The Contractor's Fee or profit will be shown as a separate line item on the Schedule of Values. Payment of the Contractor's Fee will be made with each Application for Payment in the same proportion as the percentage completion of the Cost of the Work of the Project.
- 6.2.16 Contractor's General Conditions Costs will be shown as a separate line item on the Schedule of Values. Contractor's Application for Payment will include complete copies of all receipts, invoices with check vouchers or other evidence of payment, payrolls, and any and all other evidence which Owner or its designated representatives will deem necessary to support payment of the amount requested. Owner may reduce the amount requested for General Conditions Costs in any Application for Payment if the Owner, in its good faith judgment, determines that the unpaid balance of the General Conditions line item in the Schedule of Values is insufficient to fund necessary General Conditions Costs for the remainder of the Project.
- 6.2.17 Pay requests for Subcontractor work included in an Application for Payment will not exceed the percentage of Work allocated to that Subcontractor for each respective Schedule of Values work classification that has been actually completed, and will not exceed the total value of the subcontract amount plus approved change orders.
- 6.2.18 Upon receipt of payment from Owner, the Contractor will promptly pay each Subcontractor the amount of money that such Subcontractor is entitled to for his Work, which amount will be paid from the monies received by the Contractor from Owner and will reflect the percentage actually retained. The Contractor will, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payments to his Sub-subcontractors in similar manner. All payments to Subcontractors and Sub-subcontractors will be made within ten (10) days of receipt of payment for Work listed in an approved Application for Payment that Subcontractor or Sub-subcontractor performed. The Application for Payments will designate the dollar amount of Work which Subcontractor or Sub-subcontractor provided in order to enable Owner to track Historically Underutilized Business (HUB) statistics.
- 6.2.19 Retainage as specified in the Contract Documents will be withheld from the entire amount approved in an Application for Payment including the Cost of the Work, General Conditions, and the Contractor's Fee.
- 6.2.20 As Owner is a political subdivision and Non-profit Organization of the State of Texas, materials and services utilized in the construction of the Project may be exempt from state and local taxes. Contractor will take full advantage of all tax exemptions applicable to the Project. Owner will deduct from the Applications for Payment and from the Request for Final Payment any taxes paid for materials or services that were entitled to tax exemption.
- 6.2.21 Owner may, on request and at his discretion, furnish to any Subcontractor, if practicable, information regarding the percentage of completion or the payment amounts applied for by the Contractor and the action taken thereon by Owner on account of Work done by such Subcontractor.
- 6.2.22 Owner will have no obligations to pay or to see to the payment of any monies to any Subcontractor except as may otherwise be required by law.
- 6.2.23 No approval of an Application for Payment, nor any Progress Payment, nor any partial or entire use or occupancy of the Project by Owner, will constitute an acceptance of any Work not in accordance with the Contract Documents.
- 6.2.24 Payments Withheld.

6.2.24.1 Owner may decline to approve the Application for Payment in whole or in part, to the extent reasonably necessary, if he is unable to confirm, based on his observations at the site and the data compromising the Application for Payment, that the Work has progressed to the point indicated, that the quality of the Work is in accordance with the Contract Documents, and that Contractor is entitled to payment in the amount requested. In such situations, Owner will notify Contractor as provided in this Article 6. If Contractor and Owner cannot agree on a revised amount, Owner will promptly revise and approve the Application for Payment in an amount that he is able to confirm. Owner may also decline to approve payment in whole or in part, because of subsequent observations or information that amounts paid for Work in a prior Application for Payment are non-compliant, and to otherwise protect the Owner from loss because of:

- 6.2.24.1.1 defective Work not remedied;
- 6.2.24.1.2 third party claims, either filed or likely to be filed based on reasonable evidence, ;
- 6.2.24.1.3 Contractor's failure to make payments to Subcontractors or to third parties for labor, materials, or equipment;
- 6.2.24.1.4 Owner's reasonable belief that there is no likelihood that the Work can be completed for the unpaid balance of the Contract Sum or within the Contract Time;
- 6.2.24.1.5 damage to the Owner or another Contractor;
- 6.2.24.1.6 failure to carry out any portion of the Work in accordance with the Contract Documents; or
- 6.2.24.1.7 Contractor's failure to correct any serious violation of OSHA standards or non-compliance with Contract Documents related to Protection of Persons and Property.

6.2.24.2 When the above grounds are removed, payment will be made for amounts withheld because of them.

6.2.24.3 Owner will have the right to withhold from payments due Contractor such sums as are necessary to protect Owner against any loss or damage which may result from negligence by Contractor or any Subcontractor or failure of Contractor or any Subcontractor to perform their obligations under this Agreement.

6.2.25 Notwithstanding any other contractual provision to the contrary, Owner will not be obligated to make any payment to Contractor under any of the following circumstances:

6.2.25.1 Contractor persistently fails to perform the Work in accordance with the Contract Documents, including the Schedule Requirements attached thereto, or is otherwise in material breach or default under this Agreement;

6.2.25.2 The payment request has insufficient documentation to support the amount of payment requested for Project costs; provided, however, Owner will pay for allowable Project costs for which there is sufficient documentation;

6.2.25.3 Contractor is in violation of the Prevailing Wage requirements or has failed to make payments promptly to Subcontractors or other third parties used in connection with any services or materials for which Owner has made payment to Contractor;

- 6.2.25.4 Contractor is insolvent, makes a general assignment for the benefit of its creditors or otherwise seeks protection under the laws and regulations of the bankruptcy courts; or
- 6.2.25.5 Contractor fails to obtain, maintain or renew insurance coverage as required by the Agreement.
- 6.2.26 Owner will be entitled to deduct amounts for the following items from any Application for Payment or from the Request for Final Payment submitted by the Contractor:
- 6.2.26.1 Discounts earned by the Contractor through advance or prompt payments funded by Owner. The Contractor will obtain all possible trade and time discounts on bills for material furnished, and will pay bills within the highest discount periods. The Contractor will purchase materials for the Project in quantities that provide the most advantageous prices to the Owner.
- 6.2.26.2 Deposits made by Owner and forfeited due to the fault of the Contractor.
- 6.2.26.3 Balances remaining on any Allowances, Shared Contingency, or any other identified contract savings.
- 6.2.26.4 Owner will be entitled to recognize and recover 100% of any savings identified by cost review or audit at any time, before or after Final Payment.
- 6.2.27 Failure of Payment.
- 6.2.27.1 If Owner does not approve an Application for Payment, through no fault of the Contractor, within seven (7) days after receipt of the Contractor's Application for Payment, or if Owner does not pay the Contractor within thirty-one (31) days after approving an Application for Payment, then the Contractor may, ten (10) days after giving written notice to the Owner, suspend Work until payment of the amount owing has been received. The Contract Sum will be increased by the amount of the Contractor's reasonable costs of shut-down, delay, and start-up, which will all be effected by appropriate Change Order.
- 6.2.28 The Contractor's Request for Final Payment will not be made until all Work is completed and all requirements of the Contract Documents are satisfied including, without limitation: delivery to Owner of a complete release of all liens and claims arising out of the Work; written consent of surety to release of final payment; and an affidavit that, to the best of the Contractor's information, knowledge and belief, the release includes and covers all materials and services over which Contractor has control and for which a lien could be filed, and that all known debts and claims arising from the Project have been satisfied. Alternatively, the Contractor may, at its sole expense, furnish a bond satisfactory to Owner to indemnify Owner against any lien arising out of the Work. If any lien is asserted against Owner after all payments are made, the Contractor will reimburse Owner for all damages and costs Owner may incur in discharging such lien, including all costs of court and reasonable attorneys' fees, and Owner will retain all other remedies available to it at law and in equity.
- 6.2.29 Owner will have no obligation to make Final Payment until a complete and final accounting of the Contract Sum has been submitted by the Contractor and has been audited and verified by Owner or Owner's representatives.
- 6.2.30 Nothing contained herein will require Owner to pay the Contractor an aggregate amount for the Work that exceeds the Contract Sum or to make any payment if, the Owner believes, the

cost to complete the Work would exceed the Contract Sum less previous payments to Contractor.

- 6.2.31 Acceptance by the Contractor or the Contractor's successors of Final Payment will constitute a full and complete release of Owner from any and all claims, demands, and causes of action whatsoever that Contractor, its Subcontractors, suppliers and consultants or any of their successors or assigns have or may have against Owner arising from the Project or any provision(s) of this Agreement except for those previously made in writing and identified by Contractor as unsettled at the time of the Request for Final Payment.
- 6.2.32 Payments will be made by check or electronic transfer of funds by Owner upon satisfactory delivery and acceptance of the goods or services required under this Contract and submission and approval of invoices in accordance with the Contract Documents. Direct invoices not requiring approval from Architect/Engineer and Owners' Project Manager will be submitted to the following address:

CommUnityCare
ATTN: CUC Accounts Payable
PO Box 17366
Austin, Texas 78760

Alternatively, an electronic invoice may be sent to: accountspayable@communitycaretx.org

- 6.2.33 Taxpayer ID Number Required. Before Owner can process an Application for Payment, the Contractor must provide Owner with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code, its rule and regulations.

6.3 Changes in the Contract Sum.

- 6.3.1 No change from the Contract Documents will be undertaken without the prior review by the Architect and approval of Owner. The Contractor will be responsible for details of the Work necessary to carry out the intent of the Drawings and Specifications, or which are customarily performed. When more detailed information is required for performance of the Work or when an interpretation of the Contract Documents is requested, the Contractor will submit a written request to the Architect and the Owner. Where only part of the Work is indicated in the Contract Documents, similar portions of the Work will be considered repetitive and will be fully executed by the Contractor as if actually shown in all appropriate portions of the Contract Documents. Where any detail is shown and components thereof are fully described, similar details not fully described will be considered to incorporate the fully described details and components. In the case of inconsistency between Drawings and Specifications or within either document not clarified by Addendum, the better quality or greater quantity will be provided in accordance with the Architect's interpretation at no extra cost to Owner.

ARTICLE 7 – GENERAL PROVISIONS

- 7.1 Definitions. The terms, words and phrases used in the Contract Documents will have the meanings given in the General Conditions and as follows:

- 7.1.1 **Architect/Engineer** means the professional architect and/or engineer employed by the Owner as architect or engineer of record for the Project and its consultants.

- 7.1.2 **Construction Documents** means, collectively, the Drawings, Specifications, details, Change Orders and other documents prepared by the Architect/Engineer, its consultants and by the Owner's other consultants that describe the scope and quality of the Project and the materials, supplies, equipment, systems and other elements that are required for construction of the Project that are accepted by the Owner, and the General and Supplemental Conditions of the Contract, if any.
- 7.1.3 **Contract Sum** means the total amount of all compensation payable to the Contractor for the Project subject to adjustment for Additional Services or Change Orders. Any costs that exceed the Contract Sum will be borne solely by Contractor without reimbursement by Owner.
- 7.1.4 **General Conditions Cost** means costs incurred by the Contractor without the need for competitive bids/proposals. The allowable General Conditions Cost items are further described and limited as part of Exhibit C.
- 7.1.5 **Owner** means the Owner of the Project and will be referred to as if singular in number and masculine in gender. The term Owner means Central Health, or its designated and authorized representative (Project Manager).
- 7.1.6 **Project** means the entire construction job, of which the Work performed under the Contract Documents may be the whole or a part.
- 7.1.7 **Project Team** means the Owner, Contractor, Architect/Engineer and its consultants, any separate contractors employed by Owner, and other consultants employed for the purpose of programming, design, and construction of the Project. The members of the Project Team will be designated by Owner and may be modified from time to time by Owner.
- 7.1.8 **Subcontractor** means a person or entity who has an agreement with the Contractor to perform any portion of the Work. The term Subcontractor does not include the Architect/Engineer or any person or entity hired directly by the Owner.
- 7.1.9 **Work** means the provision of all services, labor, materials, supplies, and equipment that are required of the Contractor to complete the Project in strict accordance with the requirements of the Contract and the Contract Documents. Work includes, but is not limited to, the Construction, additional work required by Change Orders, and any other work reasonably inferable from the Contract Documents. The term "reasonably inferable" takes into consideration the understanding of the parties that some details necessary for completion of the Work may not be shown on the Drawings or included in the Specifications, but they are a requirement of the Work if they are a usual and customary component of the Work or otherwise necessary for complete installation and operation of the Work.
- 7.1.10 **Worker Wage Rate** means the actual hourly wage of non-salaried persons performing work on the Project plus allowable employer contributions as established on the Worker Wage Rate Form required by the Construction Documents. Any payments made for Contractor's and/or subcontractors' personnel are subject to audit to determine the actual cost of the wages and allowable employer contributions incurred by the Contractor for services performed for the Project.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

- 8.1 Owner will designate an Architect/Engineer for the Project.

- 8.2 Owner will identify a person who is authorized to act on Owner's behalf with respect to the Project. This person is referred to herein as the "Project Manager". The Owner's Project Manager will examine the documents submitted by the Contractor and will render decisions on behalf of Owner. The Project Manager will administer this Agreement on behalf of Owner, including final determination of fees and costs earned by the Contractor and equitable back charges against the Contractor.
- 8.3 Owner, at Owner's cost, will secure the services of surveyors, geotechnical engineers, existing facility surveys, testing and balancing, environmental surveys and/or other special consultants to develop such additional information as may be necessary for the design or construction of the Project.
- 8.4 The Contractor's attention is directed to the fact that piping, pipelines, conduit, ductbanks and other underground and under-slab utilities and/or installations as may be shown on the plans have been taken from the best available information. Owner makes no representations that information provided on underground and under-slab installations is complete or accurate. There may be other subsurface and under-slab pipelines, conduit, devices or installations. The Contractor will save and hold harmless Owner from any and all suits or claims resulting from damage by his operations to any pipeline, electric or communications conduits or similar underground installation.
- 8.5 Unless otherwise provided in the Contract Documents, Owner will secure and pay for necessary rights of way and easements required for the construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.
- 8.6 Owner will arrange and pay for materials, structural, mechanical, chemical and other laboratory tests as required by the Construction Documents.
- 8.7 Owner will furnish all legal, accounting, auditing and insurance counseling services for itself as may be necessary for the Project.
- 8.8 Owner or its Architect/Engineer will furnish required information and services and will render approvals and decisions as expeditiously as is consistent with reasonable skill and care and the orderly progress of the Contractor's services and of the Work. Contractor will advise Owner of key or critical information in a timely manner in order to avoid Project delay. Owner will not be held accountable to Contractor for any delay if the Contractor failed to provide sufficient notice to Owner of key or critical information needed for approval.
- 8.9 Owner may designate one or more construction inspectors who will be given access to the Work as requested or needed. The provision of inspection services by Owner will not reduce or lessen Contractor's responsibility for quality assurance and inspection of the Work. Contractor is fully and solely responsible for constructing the Project in strict accordance with the Construction Documents.
- 8.10 Owner will have the right to reject any defective Work on the Project. Should the Contractor refuse or neglect to correct any such Work within a reasonable time after notice, Owner may have the Work corrected and recover all expenses incurred from the Contractor on demand.
- 8.11 Owner will forward all instructions to the Contractor in writing. Any verbal directions given by Owner will be confirmed in writing. No communication or direction from Owner will be interpreted as a change to the Agreement unless provided in writing and processed as a Change Order.
- 8.12 Owner will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work. Owner will not be responsible for or have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other

person performing any of the Work. Owner will not be responsible for failure of any of the aforementioned persons to carry out the Construction Work in accordance with the Contract Documents.

8.13 Owner will observe the Work to evaluate the Contractor's Applications for Payment.

8.14 Owner's Right to Stop the Work.

8.14.1 If the Contractor fails to correct defective Work or persistently fails to carry out the Work in accordance with the Construction Contract, the Owner may, in writing, order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated. However, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of the Contractor or any other person or entity.

8.15 Owner's Right to Carry out the Work.

8.15.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Construction Contract and fails within seven (7) days after receipt of written notice from Owner to commence and continue correction of such default or neglect with diligence and promptness, Owner may, after seven (7) days following receipt by the Contractor of any additional written notice and without prejudice to any other remedy he may have, commence and correct such deficiencies. In such case, an appropriate Change Order will be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor will pay the difference to the Owner within thirty (30) days after receipt of written demand therefor.

8.16 Owner or Architect/Engineer will prepare Change Orders.

8.17 Owner will approve and monitor the Schedule.

ARTICLE 9 – ARCHITECT/ENGINEER'S RESPONSIBILITIES

9.1 Architect/Engineer will coordinate and cooperate with Owner and Contractor to best support the progress of the Work. Architect/Engineer's authority to act on behalf of Owner is limited to that defined herein. Unless defined in its Construction Documents, Architect/Engineer will have no responsibility for construction means and methods, sequencing, logistics, phasing, procedures, safety precautions, or other attributes of the physical performance of the Work. However, to the extent that the Architect/Engineer has actual knowledge of an unsafe or hazardous condition on the site of the Work, it will immediately inform both the Contractor and Owner. Owner will take appropriate action.

9.2 Architect/Engineer will provide administration of the Contract between Owner and the Contractor as provided herein and per the General and Supplemental Terms and Conditions, if any, of the Contract. Owner will provide Architect/Engineer with a copy of the executed contract between Owner and the Contractor, including the GCs and Supplemental Conditions of the Contract.

9.3 Architect/Engineer and, as appropriate to the progress of the Work, its subconsultants will attend progress meetings and make weekly site visits after the start of construction to generally determine if the Work is proceeding in accordance with the Contract Documents. Architect/Engineer will not make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.

9.4 The purpose for Architect/Engineer's attendance at progress meetings is threefold: (i) to aid in the coordination, cooperation, and understanding of Project requirements and the resolution of

conflicts as described by the Contract Documents; (ii) to report to Owner identified or known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor; and (iii) to observe and comment on the quality of subcontractors' work at the outset of its installation.

- 9.5 As part of its attendance at progress meetings, Architect/Engineer will participate with Owner in "1st Work" observations to observe the quality and compliance of subcontractors' work at outset of its installation. The purpose and intent is to establish an acceptable installation quality for each component of the Work at the start of such work rather than to find defective work and require its correction later.
- 9.6 Architect/Engineer will recommend rejection of Work that does not conform with Contract Documents and which cannot readily be corrected.
- 9.7 Architect/Engineer will respond to all Requests for Information (RFI) within three (3) days unless otherwise agreed in advance. This 3 day maximum duration includes reviews, collected and coordinated between all reviewing (engineering) disciplines. Architect/Engineer will endeavor to provide immediate or expedited reviews as needed and prioritized.
- 9.8 Submittals.
- 9.8.1 Architect/Engineer will review submittals in accordance with and to support Schedule. Submittals include without limitation, product data and information, shop drawings, samples, etc. In general, each submittal will be reviewed and returned to the Contractor within seven (7) days unless otherwise agreed in advance. This seven (7) day duration includes reviews, collected and coordinated between all reviewing disciplines. Reviews will be performed on incomplete submittals as needed to support construction progress. The Contractor will be required to prepare a Submittal Schedule as general guidance and to assist Architect/Engineer's planning.
- 9.8.2 Architect/Engineer will only review a particular shop drawing, product data, and samples two (2) times. Owner can recover from Contractor any costs that Architect/Engineer may have incurred for necessary additional review and Owner will withhold that amount from any payment due the Contractor pending the resolution of the matter. However, if Owner determines that Architect/Engineer's approvals have been withheld unfairly, the provisions of this sub-subparagraph will not apply.
- 9.9 Architect/Engineer will provide necessary clarifications of the Construction Documents either from its office or at the site. Services of Architect/Engineer and/or its consultants or subconsultants will be provided depending on the nature of the specific problem needing clarification.
- 9.10 Architect/Engineer will provide all interpretations of Construction Documents and details of incidental services necessary to the proper execution of the Work, including the selection of colors, textures, and finishes.
- 9.11 Architect/Engineer will participate in and aid resolution of systems conflicts and Work coordination. Such services will be provided in a timely manner to facilitate Work progress.
- 9.12 Extra work caused Architect/Engineer and its consulting engineers or subconsultants, as applicable, by the necessity for multiple repeated visits to the job site to study, direct, and observe the correction of improper Work will be paid for by the Contractor. Central Health may recover any costs from Contractor that Architect/Engineer may have otherwise pursued against Central Health for additional services described in this Subparagraph and Central Health will withhold that amount from any payment due the Contractor pending the resolution of the matter.

9.13 Architect/Engineer's Review of Contract Payments.

9.13.1 Architect/Engineer will participate and cooperate with Owner and Contractor in joint reviews of Contractor's Application of Payments. Based on Architect/Engineer's observations and evaluations of the Contractor's Work, Architect/Engineer will review, on a monthly basis, Contractor's Applications for Payment and will certify amounts due to the Contractor. Architect/Engineer will act to protect Owner, but will act in good faith. Any corrections to the Contractor's Application for Payment will be sent to the Contractor's Project Manager and Owner's Project Manager by Architect/Engineer.

9.14 Architect/Engineer's Review of Contractor's Changes in the Work.

9.14.1 Architect/Engineer may only authorize minor changes in the Work. A minor change is a change that does not increase the cost of the Work or the time required for Contractor's performance. Minor changes will generally conform to Contract Documents.

9.14.2 Architect/Engineer will assist Owner in reviewing Contractor's proposed changes. Architect/Engineer will advise Owner on the proposed changes' impact to labor effort, materials cost, and the approved time for completion. Architect/Engineer's review will be timely, but in no event, later than ten (10) days after receipt of a request for change.

9.15 Construction Completion.

9.15.1 Upon Contractor's request for a substantial completion inspection of the Work or a portion of the Work, Architect/Engineer will make joint field observations and reviews of construction with Owner and Contractor to determine whether Contractor has completed Work in accordance with interim milestone dates or durations as defined in the Contract, if any.

9.15.2 Architect/Engineer will make a joint final field observation of construction with Owner and Contractor.

9.15.3 Architect/Engineer will prepare punch lists identifying deficiencies in the Work. Architect/Engineer will prepare one punch list for each area that is substantially complete and will perform one follow up inspection of each punch list area to confirm that identified deficiencies (from initial punch list for each area) are corrected. Architect/Engineer will also participate with Owner and Contractor in pre-punch list inspections of each type of space to establish and define minimum Work levels to be completed prior to Architect/Engineer's punch list inspections. Owner can recover from Contractor any costs that Architect/Engineer may have incurred for additional services described in this subparagraph, and Owner will withhold that amount from any payment due the Contractor pending the resolution of the matter. However, if Owner determines that Architect/Engineer's approvals have been withheld unfairly, the provisions of this subparagraph will not apply.

ARTICLE 10 - CONTRACTOR'S RESPONSIBILITIES

10.1 The Contractor acknowledges that it is experienced in constructing projects substantially similar to the Project.

10.2 Except as otherwise required in the Contract Documents, Architectural and Engineering services are not included in this Contract.

- 10.3 Threshold inspections are not included in this Contract. However, Contractor will schedule and coordinate performance of threshold inspections, if any.
- 10.4 Contractor will perform the Work in strict accordance with all applicable laws, codes, rules, regulations, and any other requirements of authorities having jurisdiction over the Project in effect when the Contract is established, including any applicable rules, regulations, guidelines, and advisories promulgated by the City, County, and/or State as applicable.
- 10.5 Contractor expressly acknowledges that the Work called for under this Agreement and the Contract Documents may be in a geographical area prone to abnormal weather, tropical storms, and hurricanes ("Severe Weather"). Contractor recognizes that effects from Severe Weather may: (a) cause extended delays on the part of Subcontractors performing work on the Project; (b) result in labor and material shortages; (c) result in contract defaults on the part of Subcontractors; (d) result in Subcontractors not being able to honor previous prices and time commitments; (e) cause the cost of labor and materials to rise to an unknown extent, and; (f) result in other extended time and cost impacts to the Project. The Owner recognizes that the Project may necessarily be shut down for a reasonable period of time preceding, during, and following Severe Weather occurring on or near the Project. Contractor may be entitled to an increase in the Contract Sum and/or an extension of time, due to delay incurred by Contractor, occasioned by the effects of such Severe Weather. If the Project is shut down by Owner or governing authority with jurisdiction over the Project due to Severe Weather, the Contractor may be entitled to recover its reasonable, direct, documented, and tangible costs resulting from such shutdown. Contractor acknowledges that any such weather conditions will not be considered "unforeseen" conditions for the purposes of this Agreement. Contractor will comply with any hurricane policies or procedures promulgated by Owner or local or state regulatory authorities. Owner acknowledges that such policies and procedures may impact the progress of the Work.
- 10.6 Review of Contract Documents.
- 10.6.1 The Contractor will exercise due diligence in carefully studying the Contract Documents and will report to Owner, in a timely manner, any error, inconsistency, or omission he may discover. The report will be in the form of a RFI. For purposes of this paragraph, the RFI will be considered "timely" if it is provided as soon as practicable but in no event later than seven (7) days after the Contractor's discovery of the error, inconsistency or omission. Should the Contractor fail to timely report such errors, inconsistencies, or omissions in the Contract Documents and such delay results in additional costs to the Owner and/or in schedule delays, the Contractor will not be entitled to a Contract Time extension or an increase in the Contract Sum for additional Work, incidental damages, or Project delays unless the Contractor demonstrates to Owner's satisfaction that such additional costs and/or Project delays would have resulted even if the RFI had been timely issued. The Contractor will perform no portion of the Work at any time without the necessary part of the Contract Documents or, where required, approved shop drawings, product data, or samples for such portion of the Work.
- 10.6.2 If the Contractor observes that any of the Contract Documents are at variance with applicable laws, statutes, building codes, or regulations in any respect, he will promptly notify Owner in writing. Any necessary changes will be accomplished by appropriate Change Order.
- 10.7 Without limit, the Contractor will:
- 10.7.1 Monitor, direct, and coordinate the Work of the Subcontractors with the activities and responsibilities of the Owner, its consultants, the Architect/Engineer and Contractor to complete the Project in accordance with the Contract Documents.

10.7.2 Monitor and assess the adequacy of the Subcontractors' personnel and equipment, as well as the availability of materials and supplies to meet the schedule. Take appropriate action to ensure that Subcontractors supply sufficient manpower, material, and equipment to meet schedule and Contract requirements. Develop and maintain a project log that records, on a daily basis, the number and types of personnel and equipment on the project site for all Subcontracts. Include summaries of such logs in monthly reports to Owner.

10.7.3 Promptly advise Owner if any Subcontractor is in material breach of its Contract or appears unable to perform its scope of work.

10.8 Supervision and Construction Procedures.

10.8.1 The Contractor will designate a representative authorized to act on the Contractor's behalf with respect to the Project. The designated representative will be Owner's primary contact during Construction and will be available as required for the benefit of the Project and Owner. The designated representative will be authorized to act on behalf of and bind the Contractor in all matters related to Construction including, but not limited to, execution of Change Orders and Applications for Payment.

10.8.2 The Contractor will supervise and direct the Work, using his best skill and attention. He will be solely responsible for all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.

10.8.3 The Contractor will be responsible to Owner for the acts and omissions of his employees, Subcontractors, and their agents and employees, and for other persons performing any of the Work under a contract with the Contractor.

10.8.4 The Contractor will not be relieved from his obligations to perform the Work either by the activities or duties of Owner or Architect/Engineer in his administration of the Contract, or by inspections, tests, or approvals required in accordance with Contract Documents by persons other than the Contractor.

10.8.5 In the execution of the Contract, the Contractor must comply with all applicable state and federal laws, including but not limited to laws concerned with labor, equal employment opportunity, safety and minimum wages. The Contractor will make himself familiar with and at all times will observe and comply with all federal, state and local laws, ordinances and regulations that in any manner affect the conduct of the Work, and will indemnify, save and hold harmless Owner and its official representatives against any claim to the extent arising from violation of any such law, ordinance, or regulation by himself or by his Subcontractors, suppliers, consultants, or employees.

10.8.6 The Contractor will perform all services specifically allocated to it by the Contract Documents as well as those services reasonably inferable from the Construction Documents as necessary for completion of the Work and the Project. Contractor agrees to perform these services using his best efforts, skills, judgments, and abilities.

10.8.7 The Contractor will organize and maintain a qualified and skilled staff as necessary for the duration of the construction Work at the Project site with clearly defined lines of authority and communication as necessary to coordinate and direct the Work, monitor the progress of the Subcontractors, and enforce and ensure quality standards in the Work...

10.8.8 The Contractor will cooperate with the Owner and its Architect/Engineer and will endeavor to further and protect the goals and interests of the Owner and the Project. The Contractor

will complete the Project in an expeditious and economical manner consistent with the interests of Owner and in accordance with the Schedule.

- 10.8.9 The Contractor will establish procedures for communication and coordination among the Project Team, Subcontractors, separate contractors, and others with respect to all aspects of the construction of the Project, and implement such procedures.
- 10.8.10 The Contractor will establish and maintain a numbering and tracking system for all Project records, including changes, RFIs, submittals, and supplementary instructions and will provide updated records at each Owner's meeting and when requested.
- 10.8.11 Fast Track/Multiple Completion Times. If Owner elects to "fast-track" or develop the Project in multiple stages, Contractor will organize and perform the services as appropriate to each stage. Each stage of the Project may have a unique schedule for completion and a specific Construction Cost Limitation, at Owner's discretion.
- 10.8.12 The Owner's Policy on the Utilization of Historically Underutilized Businesses ("HUB") ("Policy") is described in attached Exhibit E. Contractor, as a provision of the Agreement, must comply with the requirements of the Policy and adhere to the HUB Subcontracting Plans submitted for his Work.

10.9 Schedule.

- 10.9.1 The Contractor will develop a critical path method schedule ("**Schedule**") for Project Team review and Owner approval that coordinates and integrates activities on the Project, including the Contractor's services, the Architect/Engineer's administrative and observation services, the work of other consultants and suppliers, and Owner's activities with the anticipated construction schedules for other contractors. The Schedule must identify all major milestones through Project Final Completion. The Schedule will be created and maintained in format acceptable to Owner. Once approved by Owner, the Schedule will become the "Project Baseline Schedule." The Schedule will be provided to Owner in both electronic and hardcopy formats.
- 10.9.2 The Schedule will include other detailed schedule activities as needed for the Project or directed by Owner including, without limit, Owner-managed work under separate contracts such as long lead procurement activities and durations, furniture, fixtures and equipment, project security, property protection, life-safety systems integration with building automation and monitoring systems, telephone, information technology data-transmission systems, and computer technology systems, and other systems identified by Owner or required for the Project.
- 10.9.3 The Contractor will update the Schedule throughout the Project and in accordance with Contract Documents. Bi-weekly updates are required to track ongoing activities and to provide a "look-ahead" for subsequent Work and activities. Monthly updates will track overall Project progress. More frequent updates to track overall Project progress or specific work will be provided at Owner direction.
- 10.9.4 All schedule updates will be tracked against the approved Project Baseline Schedule. The Project Baseline Schedule will not be adjusted without Owner approval. Schedule format will clearly identify and show Project Baseline Schedule activities, milestones, durations and similar information, and progress and status compared to the Baseline.

- 10.10 Construct the Work in strict accordance with the Contract Documents within the time required by Owner approved Project Baseline Schedule.

- 10.11 Attend Owner's regularly scheduled Project progress meetings and fully advise the Project Team of the Project status including schedule, costs, quality, and changes. Prepare and issue to Owner and Architect/Engineer meeting minutes for each Project progress meeting, and other significant meetings. Issue meeting minutes within three (3) days of the meeting.
- 10.12 In addition to attending Owner's regularly scheduled Project progress meetings, the Contractor will schedule, direct, and attend interim progress meetings with other members of the Project Team as required to maintain Project progress. The Contractor will record and distribute the minutes of each interim progress meeting to each Project Team member. The minutes will identify critical activities that require action and the dates by which each activity must be completed.
- 10.13 Coordinate and accept, as required, delivery and installation of Owner-procured material and equipment.
- 10.14 Provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, transportation, and all other facilities and services necessary for the proper execution and completion of the Work in strict accordance with the requirements of the Contract Documents.
- 10.15 Obtain building permits and special permits for permanent improvements as required by law or the Construction Documents. Assist Owner and Architect/Engineer in obtaining all approvals required from authorities having jurisdiction over the Project.
- 10.16 Warrant that the materials and equipment provided for the Project will be of good quality and new unless otherwise required or permitted by the Construction Documents; that the construction will be free from faults and defects; and that the construction will conform to Contract Documents. The Contractor will be responsible for correcting Work that does not comply with the Contract Documents at its sole expense without cost to Owner.
- 10.17 Maintain and deliver the required documents that describe changes or deviations from the Construction Documents that occurred during construction and that reflect the actual "As Built" conditions of the completed Work.
- 10.18 Cost Control. The Contractor will without limit:
- 10.18.1 Maintain cost accounting records on authorized Work performed under unit costs, actual costs for labor and materials, or other basis requiring accounting records. Provide Owner access to these records and preserve them for a period of three (3) years after final payment, or as may be required by Owner due to continuing audit or discrepancies, litigation or similar issue, or as required by bonding or other agencies.
- 10.18.2 Maintain and enforce procedures to verify compliance with Living wage requirements and assure that reporting complies with Project requirements.
- 10.19 Quality Control. The Contractor will develop and implement a Quality Control Program for the purpose of preventing, tracking, and correcting deficiencies in the Work.
- 10.19.1 Contractor will require each Subcontractor to demonstrate initial work methodology, sequence, and quality as requested by Owner, Architect/Engineer, or as required by Contract Documents. Rejected work will immediately be removed or re-worked and re-constructed until accepted by Owner and the Architect/Engineer. Approved initial work may be included in the final work.

10.19.2 The Contractor will inspect the Work of Subcontractors and material suppliers to guard Owner against defects and deficiencies in the Work. The Contractor will check and report on all materials, equipment, systems, and related items to be incorporated in the Work, including, but not limited to, compliance with Construction Documents and verification of specific conformance to approved coordination drawings, certifications, shop drawings, submittals, mock-ups and similar items. Subcontractors and material vendors will immediately be notified of identified deficiencies. All deficiencies will be added to and tracked in a quality deficiencies report and included in monthly reports to Owner. Deficiency reports will also be available for review and discussion in Progress Meetings. Inspections will be performed on- or off-site as required. Inspections will be handled as a General Conditions Cost item and the cost will be included in the Guaranteed Maximum Price. The Contractor will arrange for and coordinate inspection of the Work and materials by independent testing agencies in accordance with Contract Documents.

10.19.3 Contractor will promptly correct any defective Work at Contractor's sole expense, unless the Owner specifically agrees to accept the Work. Contractor will define corrective actions to be taken and provide schedules for related work. Corrective work will not be delayed unless Contractor receives Owner's approval to delay.

10.20 Reports and Project Site Documents. The Contractor will:

10.20.1 Record the progress of the Project and submit monthly, written progress reports to Owner and the Architect/Engineer including information on the Subcontractors' Work, the percentages of completion, and any other significant items and problems.

10.20.2 Keep a daily log of the progress of the Work, significant problems and accomplishments, etc. All daily reports will be available to Owner and the Architect/Engineer. The cost of all Project reporting will be a General Conditions Cost and included in the Contract Sum.

10.20.3 Take photographs to document existing site conditions, including those immediately adjacent to the Project site prior to the start of Work, and deliver a copy of such photographs to Owner. The Contractor will, at monthly intervals, take progress photographs. Progress photographs will be sufficient to encompass the entire Project site and provide visual detail of ongoing work. To the greatest extent possible, the photographs will be taken from the same vantage points as the previous month, subject to the varying opportunities and limitations of the site. Aerial photographs are not required. Digital photographs are acceptable, with electronic media containing photographs provided monthly to Owner and Architect.

10.20.4 Photographically document all connections, valves, direction changes, tie-ins, etc. of utilities work before such work is closed in or covered by back fill. Such photographic material, and any other photographs and photographic film, relating in any way to the Project will become and remain the property of Owner. The cost of such photography will be included in the Contract Sum.

10.20.5 Maintain at the Project Site records of all contracts, and a clean, dry, current, corrected, and bound set of Contract drawings. Also maintain bound specifications, shop drawings, submittals, certifications, operating manuals, warranties, and any other documents and revisions thereto that arise out of this Contract or the Work as further defined in the Contract Documents. Regularly post, correct, annotate, and update these documents to maintain records of both changes made by Owner and/or Architect/Engineer and to record As-Built conditions known by the Contractor. Owner may review these documents on a monthly basis to determine compliance with this section. The Architect, Owner, and Owner's testing,

inspection and commissioning consultants will be able to rely upon the completeness and accuracy of these documents in order to perform their services.

10.20.6 Owner and Architect will have full and complete access to all Project documents prepared, maintained, and retained by the Contractor.

10.21 The Contractor will initiate, maintain, and supervise all safety precautions and programs in connection with the Work. The safety program will comply with all applicable requirements of the Occupational Safety and Health Act of 1970, all other applicable federal, state and local laws and regulations, and the Contract Documents.

10.21.1 The Contractor will provide, determine, and assign responsibilities for Site safety precautions and programs, temporary Project facilities, and equipment, materials, and services for common use of the Subcontractors. Contractor will verify that appropriate safety provisions are included in the Construction Documents.

10.22 Records and Confidentiality.

10.22.1 Records of Contractor's costs, reimbursable expenses pertaining to the Project and payments will be available to Owner or its authorized representative during business hours and will be retained for three (3) years after Final Payment or abandonment of the Project, unless Owner otherwise instructs Contractor in writing.

10.22.2 The Contractor will maintain appropriate accounting records of costs, expenses, and payrolls of employees working on the Project, for a period of three (3) years after final payment for completed services and all other pending matters concerning this Contract have been closed.

10.22.3 The Contractor will maintain information created, sent, or received under this Contract in accordance with all applicable laws and regulations.

10.23 Illegal Dumping. The Contractor will ensure that it and all of its Subcontractors and assigns prevent illegal dumping of litter in accordance with Title 5, *Texas Health and Safety Code*, Chapter 365.

ARTICLE 11 - DISPUTE RESOLUTION

11.1 Definition of Dispute. "**Dispute**" means any and all disagreements, questions, claims, or controversies arising out of or relating to this Contract, including the validity, construction, meaning, performance, effect, or breach of the Contract.

11.2 The Project Manager or his designee acts as the Owner representative in the issuance and administration of this Construction Contract. In the case of a dispute, any document, notice, or correspondence not issued by or to the Purchasing Manager, or other authorized Owner person, is void unless otherwise stated in this Contract. If Contractor does not agree with any document, notice, or correspondence issued by the Purchasing Manager, or other authorized Owner person, Contractor must submit a written notice to the Project Manager within ten (10) days after receipt of the document, notice, or correspondence, outlining the exact point of disagreement in detail. If the matter is not resolved to Contractor's satisfaction, Contractor may submit a Notice of Appeal to the Vice-President of Real Estate & Facilities, if the Notice is submitted within ten (10) days after receipt of the unsatisfactory reply. Contractor then has the right to be heard by Commissioners Court.

11.3 Negotiation. In the event of a Dispute between the parties, the parties will promptly and in good faith attempt to resolve the Dispute at the Project level through informal negotiation. A disputing party will give written notice of the Dispute to the other party that will contain a brief statement of the nature of the Dispute. If the parties are unable to resolve the Dispute within thirty (30) days of

the adverse party's receipt of the initial written notice of Dispute, the parties will endeavor to convene a meeting between senior level decision-makers not previously engaged in the Dispute. If the parties are unable to resolve the Dispute at the senior level decision maker level within thirty (30) days of the failure to resolve the Dispute at the Project level, the parties agree to submit the Dispute to mediation as set forth herein.

- 11.4 Mediation. If a Dispute arises between the parties that cannot be resolved through negotiation, the parties may submit that Dispute to mediation. The parties agree to use a mutually agreed upon mediator, or someone appointed by the Court having jurisdiction, as the provider of mediators for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation will remain confidential as described in Section 154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

ARTICLE 12 – CONTRACT SUSPENSION AND TERMINATION

12.1 Suspension.

- 12.1.1 Owner may suspend performance under this Contract as described in Sections 12.2 and 12.3 below by giving Contractor written Notice of Suspension (a "Notice of Suspension"). The "Effective Date of Suspension" will be, in the case of Suspension of Work for Cause, the date that Owner issues the Notice of Suspension and, in the case of Suspension of Work without Cause, seven (7) days after Owner issues the Notice of Suspension. Suspension will not result in termination of this Contract, and performance may be resumed in full force and effect within sixty (60) days of receipt by Contractor of written notice of reinstatement from Owner. Upon the Effective Date of Suspension, Contractor will follow the procedures described below:

12.1.2 Contractor will immediately phase out and discontinue all Work and will prepare a statement detailing the Work performed under this Contract prior to the Effective Date of Suspension. The statement will support Contractor's final Application for Payment for the Work that will be submitted and processed in accordance with Contract Documents.

12.1.3 Contractor will make the Work site secure and demobilize and remove or otherwise secure all tools and equipment. Owner will not be invoiced or responsible for any tools or equipment remaining on site during the Suspension period. Any and all project specific materials will be protected and secured to Owner's approval. With Owner approval, temporary utilities may remain connected.

- 12.2 Suspension of Work for Cause. Owner may, at any time without prior notice, suspend all or any part of the Work, if, in the Owner's sole discretion, it is considered reasonably necessary to do so to prevent or correct any condition of the Work which constitutes an immediate safety hazard or which may reasonably be expected to impair the integrity, usefulness, or longevity of the Work when completed. Owner will give the Contractor a written notice of suspension for cause, setting forth the reason for the suspension and identifying the Work to be suspended. Upon receipt of such notice, the Contractor will immediately stop the Work so identified. As soon as practicable following the issuance of such a notice, Owner will initiate and complete an investigation of the circumstances giving rise to the suspension and will issue a written determination of their cause.

12.2.1 The Contractor will not be entitled to an extension of time or compensation for delay resulting from a suspension if Owner's investigation determines that the cause was within the control of the Contractor. If the cause is determined not to have been within the control of the Contractor, and the suspension prevents the Contractor from completing the Work within the Contract Time, the suspension is an Excusable Compensable Delay. Suspension of

Work under this provision will be no longer than reasonably necessary to identify and remedy the conditions giving rise to the suspension.

12.3 Suspension of Work for Owner's Convenience. Upon seven (7) business days' prior written notice to the Contractor, Owner may at any time without breach of the Construction Contract suspend all or any portion of the Work for a period of up to sixty (36) days for its own convenience. A Notice of Suspension issued by Owner will set forth the number of days for which the Work, or any portion of it, will be suspended, and the date on which the suspension of Work will cease. When such a suspension prevents the Contractor from completing the Work within the Contract Time, it will be an Excusable Compensable Delay. A Notice of Suspension may be modified by the Owner at any time. If Owner suspends the Work for its convenience for more than sixty (60) consecutive days, the Contractor may elect to terminate the Construction Contract pursuant to the provisions of this Article.

12.3.1 If the Project is suspended or abandoned in whole or in part for convenience for more than ninety (90) consecutive days, the Contractor will be compensated for Work performed prior to receipt of written notice from Owner of such suspension or abandonment. If the Project is resumed after being suspended for more than ninety (90) consecutive days, the Contractor's compensation may be equitably adjusted if, in the Owner's reasonable opinion, such adjustment is warranted.

12.4 Owner Termination.

12.4.1 If the Contractor is declared bankrupt by a court of competent jurisdiction, makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency, or if he persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he fails to make prompt payment to Subcontractors or to third parties for materials or labor, or persistently disregards laws, ordinances, rules, regulations, or order of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of the Contract Documents, then Owner may, without prejudice to any right or remedy and after giving the Contractor and his surety, if any, seven (7) days' written notice, terminate the employment of the Contractor and take possession of the site and all materials, equipment, tools, construction equipment, and machinery thereon owned by the Contractor and may finish the Work by whatever method he may deem expedient. In such case, the Contractor will not be entitled to receive any further payment until the Work is finished.

12.4.2 If the cost to complete the Work exceeds the unpaid balance of the Contract Sum the Contractor will pay the difference to the Owner. The amount to be paid to the Contractor or to Owner, as the case may be, will be approved by Owner, upon application, in the manner provided in Article 6, and this obligation for payment will survive the termination of the Construction Contract.

12.5 Termination for Default.

12.5.1 Failure by either party in performing any of its provisions will be a breach of contract, in which case, either party may require corrective action within ten (10) days after the date the breaching party receives written notice from the non-breaching party that cites the exact nature of the breach. Failure to take corrective action or failure to provide a satisfactory written reply excusing failure to take corrective action within the prescribed ten (10) days will constitute default. The defaulting party will be given a twenty (20) day period within which to show cause why the Construction Contract should not be terminated for default. The Contractor's surety will be copied on any notices to the Contractor and will be required at any meeting with the Contractor to discuss the default and any recovery plan. Owner may

take whatever action are in its best interests. All notices of a breach(s) by the Contractor will be issued by the Purchasing Manager or Owner's legal representative only, and all replies from the Contractor will be made in writing to the Purchasing Manager or Owner's legal representative at the address provided herein. Notices issued to anyone other than the Purchasing Manager or Owner's legal representative will be void, and will be considered as not having been issued or received. The defaulting party will be liable for actual damages as stipulated in this Contract. Liquidated damages, if specified in the Contract, may also apply. Owner may also enforce the performance of this Contract in any manner allowed by law in the event of breach or default, and may contract with another party without further notification to the Contractor. At a minimum, the Contractor will be required to pay any difference in the cost of securing the products or services covered by this Contract from another source because of Contractor's default, plus reasonable administrative costs and attorney's fees. If termination for default occurs, Owner and its officials, agents, and representatives will not be liable for loss of any profits anticipated to be made from this Contract.

12.6 Termination for Convenience.

- 12.6.1 Owner reserves the right to terminate this Agreement for reasons other than default by Contractor, including for any reason deemed by Owner to serve the public interest, or resulting from any governmental law, ordinance, regulation, or court order, by delivering to Contractor a written notice (a "Notice of Termination for Convenience"), which will take effect on the third (3rd) day following receipt by Contractor ("Termination for Convenience"). In the event of Termination for Convenience, Owner and its officials, agents and representatives will not be liable for loss of any profits or opportunity costs.
- 12.6.2 Upon receipt of a Notice of Termination for Convenience and prior to the effective date of termination, Contractor will, unless the Notice of Termination for Convenience otherwise directs, immediately phase out and stop all Work in connection with the project and this Contract, and will proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after receipt of a Notice of Termination for Convenience, the Contractor will submit an Application for Payment detailing the Work performed under this Agreement prior to the effective date of termination.
- 12.6.3 Upon satisfaction of the above conditions, Owner will pay the Contractor for approved services actually performed under this Contract prior to termination, less previous payments.
- 12.6.4 In the event of a no-cause termination (i.e., termination for Owner's convenience), the Contractor will be entitled to compensation for all services performed prior to the termination date, provided however, the Contractor has delivered to Owner such statements, accounts, reports, and other materials as required hereunder together with all reports, documents, and other materials prepared by the Contractor prior to termination. Upon such payment, Owner will have no further obligation to the Contractor.
- 12.6.5 Termination of this Contract will not relieve the Contractor or any of its employees, Subcontractors, or consultants of liability for violations of this Contract or for any act or omission, including negligence, of the Contractor related to the Project.

ARTICLE 13 - INDEMNITY

13.1 To the fullest extent permitted by law, the Contractor will indemnify and hold harmless Owner and its directors, officers, agents, consultants, and employees from and against all claims, losses, causes of action, suits, judgments, damages, expenses, and liabilities of any kind, including but not limited to attorneys' fees, that arise out of or result from the any act or omission of the Contractor, any Subcontractor, supplier, anyone directly or indirectly employed by one or all of them, or anyone for whose acts the Contractor or its Subcontractor may be liable for, regardless of whether the claim, loss, cause of action, suit, judgment, damage, or expense is caused in part by a party indemnified hereunder.

13.1 In any and all claims against Owner or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts either of them may be liable, the indemnification obligation under this paragraph will not be limited in any way by any limitation in the amount or type of damages or by compensation or benefits payable by or for the Contractor or any Subcontractor under workers' or workmen's compensation acts, disability benefits acts, or other employee benefit acts.

13.2 The Contractor's indemnification obligations hereunder will not extend to any claim, damage, loss, cause of action, suit, judgment, expense, or liability incurred by Owner or the Architect/Engineer and that results primarily from the negligent preparation of the signed and sealed professional services work product provided for the Project.

13.3 PATENT AND COPYRIGHT INFRINGEMENT. CONTRACTOR WILL ALSO INDEMNIFY AND HOLD OWNER, ITS DIRECTORS, OFFICERS, AGENTS, CONSULTANTS, AND EMPLOYEES, HARMLESS FROM AND AGAINST ALL CLAIMS, LOSSES, CAUSES OF ACTION, SUITS, PROCEEDINGS, JUDGMENTS, COSTS, EXPENSES, AND LIABILITIES OF EVERY KIND, ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY UNITED STATES PATENT OR COPYRIGHT THAT ARISE OUT OF ANY OF THE WORK PERFORMED BY THE CONTRACTOR OR THE CONTRACTOR'S USE OF, OR DIRECTION TO OWNER TO USE, ANY ARTICLE OR MATERIAL PROTECTED BY PATENT OR COPYRIGHT LAW ("PROTECTED MATERIALS"). UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR PATENT OR COPYRIGHT INFRINGEMENT, OWNER WILL PROMPTLY NOTIFY THE CONTRACTOR AND THE CONTRACTOR WILL BE GIVEN FULL OPPORTUNITY TO NEGOTIATE A SETTLEMENT. THE CONTRACTOR DOES NOT WARRANT AGAINST INFRINGEMENT BY REASON OF OWNER'S OR ARCHITECT/ENGINEER'S DESIGN OR BY THEIR USE OF PROTECTED MATERIAL IN COMBINATION WITH OTHER MATERIALS OR IN THE OPERATION OF ANY PROCESS. IN THE EVENT OF LITIGATION, OWNER AGREES TO COOPERATE REASONABLY WITH CONTRACTOR AND PARTIES WILL BE ENTITLED, IN CONNECTION WITH ANY SUCH LITIGATION, TO BE REPRESENTED BY COUNSEL OF THEIR OWN CHOICE.

13.4 Duty to Defend. The Contractor will and does agree to defend Owner in all suits or proceedings that relate to any obligation under this Contract for which Contractor has agreed to indemnify Owner. The Contractor will undertake the defense of Owner at no cost to and in coordination with counsel for Owner, and the Contractor acknowledges that Owner is entitled to participate in the selection of counsel. Owner may defend a nonparty claim with counsel of its own choosing and without Contractor's participation if (1) the Contractor notifies Owner that it does not wish to defend the nonparty claim by midnight at the end of the tenth (10th) day after Owner notifies Contractor of the claim, (2) the Contractor fails to notify Owner of its desire to defend the nonparty claim within the same time period, (3) representation of the Contractor and Owner by the same counsel would, in the opinion of counsel, constitute a conflict of interest, or (4) Contractor fails to diligently and continuously conduct its defense of Owner. The costs incurred by Owner in undertaking its own defense, including but not limited to Attorneys' Fees, will constitute a portion of the indemnification duties set forth in this Agreement.

13.5 Claims Notification. If Contractor receives notice or becomes aware of any claim, or other action, including proceedings before an administrative agency, that is made or brought by any person, firm, corporation, or other entity against the Contractor or Owner, the Contractor will give written notice to Owner of: the claim or other action within three (3) business days after being notified of it or the threat of it; the name and address of the person, firm, corporation or other entity that made or threatened to make a claim, or that instituted or threatened to institute any type of action or

proceeding; the basis of the claim, action or proceeding; the court or administrative tribunal, if any, where the claim, action, or proceeding was instituted; and the name or names of any person against whom this claim is being made or threatened. This written notice will be given in the manner provided by this Contract. Except as otherwise directed, the Contractor will furnish to Owner copies of all pertinent papers received by the Contractor with respect to these claims or actions.

- 13.6 The indemnities contained herein will survive the termination of this Contract for any reason whatsoever.

ARTICLE 14 - SPECIAL WARRANTIES

- 14.1 Notwithstanding anything to the contrary contained in this Contract, Owner and the Contractor agree and acknowledge that Owner is entering into this Contract in reliance on Contractor's represented expertise and ability to provide construction services. The Contractor agrees to use its best efforts, skill, judgment, and abilities to perform its obligations and to further the interests of Owner in accordance with Owner's requirements and procedures.
- 14.2 The Contractor represents and agrees that it will perform its services in accordance with the usual and customary standards of Contractor's profession or business and in compliance with all applicable national, federal, state, municipal, laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction over the Project. The Contractor agrees to bear the full cost of correcting his negligent or improper work and services, those of its Subcontractors, and any harm caused by the negligent or improper work or services performed by Contractor or its Subcontractors.
- 14.3 The Contractor's duties will not be diminished by any approval by Owner nor will the Contractor be released from any liability by any approval by Owner, it being understood that Owner is ultimately relying upon the Contractor's skill and knowledge in performing the services required hereunder.
- 14.4 The Contractor represents and warrants that all persons connected with the Contractor and who are directly in charge of its services are duly registered and/or licensed under the laws, rules, and regulations of any authority having jurisdiction over the Project if registration is required.
- 14.5 The Contractor agrees to advise Owner of anything of any nature in any Construction Documents and plans, sketches, instructions, information, requirements, procedures, and other data supplied to the Contractor (by Owner or any other party) that is, in its opinion, unsuitable, improper, or inaccurate for the purposes for which the document or data is furnished.
- 14.6 The Contractor agrees to perform its services under this Contract in an expeditious and economical manner, consistent with good business practices, and the interests of Owner.
- 14.7 The Contractor represents and warrants that there are no obligations, commitments, or impediments of any kind that will limit or prevent performance of its obligations under this Agreement.
- 14.8 The Contractor represents and warrants that the individual executing this Contract on behalf of Contractor has been duly authorized to act for and to bind Contractor to its terms.
- 14.9 Except for the obligation of Owner to pay the Contractor certain fees, costs, and expenses pursuant to the terms of this Contract, Owner will have no liability to the Contractor or to anyone claiming through or under the Contractor by reason of the execution or performance of this Contract. Notwithstanding any obligation or liability of Owner to the Contractor, no present or future partner or affiliate of Owner or any agent, officer, director, employee, or consultant of Owner, or anyone

claiming under or through Owner has or will have any personal liability to the Contractor or to anyone claiming through or under the Contractor by reason of the execution or performance of this Contract.

14.10 Debarment, Suspension and Other Responsibility Matters. Certification under this Section provides for compliance with certification requirements under 15 C.F.R. Part 26, "Government-wide Debarment and Suspension." By signing this Contract, the Contractor hereby certifies that, to the best of its knowledge and belief, it:

14.10.1 Is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;

14.10.2 Has not within a three-year (3) period preceding this Contract been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, City of Austin or Travis County, Texas) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

14.10.3 Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, City of Austin or Travis County, Texas) with commission of any of the offenses enumerated in 16.33.2; and

14.10.4 Has not within a three-year (3) period preceding this Contract had one or more public transactions (Federal, State, City of Austin or Travis County, Texas) terminated for cause or default.

ARTICLE 15 - CERTIFICATION OF NO ASBESTOS CONTAINING MATERIALS OR WORK

15.1 The Contractor will provide a certification statement, included with each appropriate materials submittal, stating that no asbestos containing materials or work is included within the scope of the proposed submittal.

15.2 The Contractor will, if required, ensure that individuals, consultants or companies licensed by the Texas Department of Health are used for any required asbestos work, including asbestos inspection, asbestos abatement plans/specifications, asbestos abatement, asbestos project management and third-party asbestos monitoring.

15.3 The Contractor will provide at Substantial Completion, a notarized affidavit to Owner and the Architect/Engineer stating that no asbestos containing materials or work was provided, installed, furnished or added to the Project.

15.3.1 The Contractor will take whatever measures he deems necessary to ensure that all employees, suppliers, fabricators, materialmen, Subcontractors, or their assigns, comply with this requirement.

15.3.2 All materials used on this Project will be certified as non-Asbestos Containing Building Materials (ACBM). The Contractor will ensure compliance with the following acts from all of his Subcontractors and assigns:

15.3.2.1 Asbestos Hazard Emergency Response Act (AHERA—40 CFR 763-99 (7));

15.3.2.2 National Emission Standards for Hazardous Air Pollutants (NESHAP—EPA 40 CFR 61, National Emission Standard for Asbestos; and

15.3.2.3 Texas Asbestos Health Protection Rules (TAHRP—Tex. Admin. Code Title 25, Part 1, Ch. 295C, Asbestos Health Protection

15.3.3 Every Subcontractor will provide a notarized statement that no ACBM has been used, provided, or left on this Project.

15.4 The Contractor will provide, in hard copy and electronic form, all necessary material safety data sheets (MSDS) of all products used in the construction of the Project to the Texas Department of Health licensed inspector or the Architect/Engineer who will compile the information from the MSDS and, assuming a finding of no asbestos in any of the products used, will make a certification statement of this finding to Owner.

15.5 At Final Completion, the Contractor will provide a notarized certification statement per TAC Title 25 Part 1, Ch. 295.34, paragraph c.1 that no ACBM was used during construction of the Project.

ARTICLE 16 - MISCELLANEOUS PROVISIONS

16.1 This Contract does not create and will not be construed as creating an employer/employee relationship, a partnership, or a joint venture unless otherwise negotiated and defined in a final agreement. The Contractor's services are and will remain throughout the term of this Contract those of an independent contractor. The Contractor agrees and understands that the Contractor is not and will not be entitled to any of the rights and privileges established for Owner's employees. Both parties expressly acknowledge and agree that none of the Contractor's employees have a contractual relationship with the Owner.

16.2 Assignment. This is a Contract for construction services, and the Contractor's interest in this Contract, duties hereunder, and/or fees due hereunder may not be assigned or delegated to a third party without specific Owner approval. Owner may assign this Contract upon giving the Contractor fourteen (14) calendar days advance notice. It is acknowledged by the Contractor that no officer, agent, employee or representative of Owner has any authority to assign any part of this Contract unless expressly granted that authority by Owner's Purchasing Manager.

16.4 Binding Contract. This Contract will be binding upon the successors, assigns, administrators, and legal representatives of the parties to this Contract.

16.5 Entire Agreement/Modifications. This Contract supersedes all prior agreements, written or oral, between the Contractor and Owner and will constitute the entire agreement and understanding between the parties with respect to the Project. This Contract and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by the Contractor and Owner.

16.6 Headings. Headings and titles at the beginning of the various provisions of this Contract have been included only to make it easier to locate the subject matter covered by that provision or subsection and will not be used in construing this Contract.

16.7 Gender and Number. Words of any gender in this Contract will be construed to include any other gender, and words in either singular or plural form will be construed to include the other unless the context in the Contract clearly requires otherwise.

16.8 Conflicts among Documents. Contractor understands and agrees that, if a conflict is found to exist between the provisions of this Contract and any provision in a related RFP, RFQ or Proposal, the provisions within the final Contract will prevail.

- 16.9 Computation of Time. When any period of time is stated in this Contract, the time will be computed to exclude the first day and include the last day of period. If the last day of any period falls on a Saturday, Sunday, or a day that Owner has declared a holiday for its employees, the last day is the next business day that is not an Owner observed holiday. Any reference to "days" will mean calendar days unless otherwise stipulated.
- 16.10 Governing Law and Venue. This Contract and all of the rights and obligations of the parties and all of the terms and conditions hereunder will be construed, interpreted, and applied in accordance with and governed by and enforced under the laws of the State of Texas without reference to its conflicts of law provisions. The county where the Project is located will be the sole place of venue for any legal action arising from or related to this Contract or the Project in which the Owner is a party.
- 16.11 Waivers. No delay or omission by either party in exercising any right or power arising from non-compliance or failure of performance by the other party will impair or constitute a waiver of any such right or power. A waiver by either party of any covenant or condition of this Contract will not be construed as a waiver of any subsequent breach of that or of any other covenant or condition of the Contract.
- 16.12 No Third Party Beneficiary. No provision of this Contract is intended to benefit any person or entity, nor will any person or entity not a party to this Contract have any right to seek to enforce or recover any right or remedy with respect hereto.
- 16.13 Appointment. Owner hereby expressly reserves the right from time to time to designate by notice to the Contractor a representative to act partially or wholly for Owner in connection with the performance of Owner's obligations. The Contractor will act only upon instructions received from the designated representative(s) unless otherwise specifically notified to the contrary.
- 16.14 Severability. Should any term or provision of this Contract be held invalid or unenforceable in any respect, the remaining terms and provisions will not be affected, and this Contract will be construed as if the invalid or unenforceable term or provision had never been included.
- 16.15 Conflict-of-Interest. The Contractor will complete the Conflict-of-Interest Questionnaire ("Questionnaire"), attached to this Contract as Attachment A, as required by Chapter 176 of the Local Government Code, and submit it together with this signed Contract. The Contractor will also complete the Disclosure of Interested Parties Form ("Form 1295"), attached to this Contract as Exhibit F, which pursuant to Section 2252.908 of the Texas Government Code, must be filed with the Texas Ethics Commission no later than thirty (30) days after the execution of this Contract. (An electronic version of this Form 1295 is available here: https://www.ethics.state.tx.us/whatsnew/elf_filing_info.htm.) The Contractor will update this Questionnaire and Form 1295 if any statement on either document becomes incomplete or inaccurate. The updated document(s) must be submitted to Owner's Purchasing Manager, 1111 E. Cesar Chavez, Austin, Texas 78702, no later than the seventh (7th) business day after the date on which the Contractor becomes aware of an event that makes a statement in either of these documents incomplete or inaccurate.
- 16.16 Solicitation. The Contractor warrants that no persons or selling agency was or has been retained to solicit this Contract upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial selling agencies maintained by the Contractor to secure business. For breach or violation of this section, Owner will have the right to terminate this Contract without liability or to deduct from the Contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

- 16.17 **Gratuities.** Owner may terminate this Contract if it is found that gratuities of any kind were offered or given by the Contractor or any agent or representative to any official or employee of Owner with a view towards securing favorable treatment with respect to the this Contract. In the event this Contract is terminated by Owner pursuant to this provision, Owner will be entitled, in addition to any other rights and remedies, to recover compensatory damages from the Contractor using the standard measure of damage calculation. The Contractor's employees, officers and agents will neither solicit nor accept gratuities, favors or anything of monetary value from Subcontractors or potential Subcontractors. The Contractor will establish safeguards to prohibit its employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.
- 16.18 **Funding Out.** Despite anything to the contrary in this Contract, if, during budget planning and adoption, Owner fails to provide funding for this Contract for the following Owner fiscal year, Owner may terminate this Contract by giving the Contractor thirty (30) days written notice that this Contract is terminated due to the failure to fund it.
- 16.23 **Owner Access and Audit.** During the term of this Contract and for a period of three (3) years following termination of this Contract, Owner maintains the right to review and audit any of the books and records of the Contractor relating to the Contractor's performance and receipt of payments under this Contract. Owner may conduct its review or audit through its own employees, agents, or representatives or through independent external auditors or representatives retained by Owner. Owner will conduct such review or audit upon reasonable notice to the Contractor, at its own expense, and during regular business hours. The records will be retained beyond the third year if an audit is in progress, the findings of a completed audit have not been resolved satisfactorily, or litigation involving this Contract is not finally resolved.
- 16.24 **Amendments.** This Contract may be amended only by an instrument in writing that is signed by both parties. Amendments to this Contract will be effective as of the date stipulated therein. The Contractor acknowledges that no Owner officer, agent, employee, or representative has any authority to amend this Contract unless expressly granted that specific authority by Owner's Board of Managers.
- 16.25 **Non-Waiver of Default.** Neither failure nor delay on the part of Owner to exercise any right, remedy, power, or privilege available to it for Contractor's breach will operate as will a waiver of any preceding or succeeding breach of the same or any other provision, covenant, or condition, nor will any single or partial exercise of any right, remedy, power, or privilege preclude any other or future exercise by Owner of its rights, remedies, powers, or privileges. Moreover, any waiver to keep or perform any provision, covenant, or condition of this Contract will be deemed to be a waiver of.
- 16.26 **Compliance with Federal, State and Local Laws.** The Contractor will provide the services and activities to be performed under the terms of this Contract in compliance with the Constitutions of the United States and Texas and with all applicable federal, state, and local jurisdiction orders, laws, regulations, rules, policies, and certifications governing any activities undertaken during the performance of this Contract.
- 16.27 **Nondiscrimination:** The Contractor will not discriminate on the grounds of race, color, or national origin in the selection and retention of Subcontractors or suppliers of materials and leases of equipment.
- 16.28 **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the Contractor for Work to be performed under a subcontract, including procurements of materials or equipment leases, each potential Subcontractor or supplier will be notified by the Contractor of the Contractor's obligations

under this Contract and the sections relative to nondiscrimination on the grounds of race, color, or national origin.

- 16.29 Sanctions for Noncompliance: If the Contractor does not comply with the nondiscrimination provisions of this Contract, Owner may impose the sanctions that it determines are appropriate, including, but not limited to, withholding payments to Contractor under the Contract until Contractor complies, or until termination or suspension of the Contract, in whole or in part.
- 16.30 Incorporation of Provisions: The Contractor will include the provisions regarding nondiscrimination in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations, or directives issued pursuant to them.
- 16.31 Public Information Act. Owner is subject to the provisions of the Texas Public Information Act ("PIA"). If Owner receives a request for disclosure of any information related to the good or services provided under this Contract or for information provided to Owner under this Contract that constitutes a record under the PIA, the information must qualify for an exception provided by the PIA to be withheld from public disclosure. The Contractor authorizes Owner to submit any information provided under the Contract or otherwise requested to be disclosed, including information that the Contractor has labeled as confidential or proprietary, to the Office of the Texas Attorney General for a determination as to whether any such information may be accepted from public disclosure under the PIA. If Owner does not have a good faith belief that information may be subject to an exception to disclosure under the PIA, Owner is not obligating itself by this Contract to submit the information to the Attorney General for a determination. Owner will have no obligation or duty to advocate the confidentiality of the Contractor's material to the Attorney General or to any other person or entity. It is the Contractor's responsibility and obligation to make any legal argument to the Attorney General or court of competent jurisdiction regarding the exception of the information in question from disclosure. The Contractor waives any claim against and releases from liability Owner, its officers, directors, employees, agents, and attorneys with respect to disclosure of information provided under this Contract or otherwise created, assembled, maintained, or held by the Contractor, including that information marked as confidential or proprietary and determined by the Attorney General or a court of competent jurisdiction to be subject to disclosure under the Act. This section will survive the termination of this Contract.
- 16.34 Notices. All notices, consents, approvals, demands, requests, or other communications relied on by the parties will be in writing. Unless this Contract provides otherwise, written notice will be deemed to have been given when delivered in person to the designated representative of the Contractor or Owner or transmitted by fax machine to the last known business fax number of the designated representative. Mail notices are deemed effective upon receipt or on the third business day after the date of mailing, whichever is sooner. Fax notices are deemed effective the next business day after faxing.

16.34.1 The address of Owner for all purposes under this Contract will be:

President and CEO
Travis County Healthcare District d/b/a Central Health
1111 East Cesar Chavez Street
Austin, Texas 78702

And

CEO
Central Texas Community Health Center d/b/a CommUnityCare
2115 Kramer Lane
Austin, TX 78758

16.34.2 The address of the Contractor for all purposes under this Contract will be as defined and listed on the Contract signature page.

16.34.3 The parties may make reasonable changes in the person or place designated for receipt of notices upon advance written notice to the other party.

BY SIGNING BELOW, the Parties have executed and bound themselves to this Agreement as of the day and year first above written.

FOR CONTRACTOR:

Name: _____

Title: _____

Date: _____

Contact for Notice Purposes:

FOR CENTRAL HEALTH:

Name: _____

Title: _____

Date: _____

FOR COMMUNITYCARE:

Name: _____

Title: _____

Date: _____

Attachment P

**Attachment P
General Conditions**

For The Party's Building Agreement

ARTICLE 1

AGREEMENT

1.1 CONTRACTUAL RELATIONSHIP

1.1.1 The Construction Agreement (Agreement) shall not be construed to create any contractual relationship of any kind between the Architect/Engineer and the CONTRACTOR. Nothing contained in the Agreement shall create any contractual relationship between the Owner or the Architect/Engineer and any Subcontractor or Sub-subcontractor, as those terms are defined herein.

1.2 EXECUTION, CORRELATION, AND INTENT

1.2.1 By executing the Agreement, the CONTRACTOR represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Agreement.

1.2.2 The intent of the Agreement is to include all items necessary for the proper execution and completion of the Work. Work not covered in the Agreement shall be required if it is consistent therewith and is reasonably inferable as being necessary to produce the intended results. Words and abbreviations, which have well-known technical or trade meanings, are used in the Agreement in accordance with such recognized meanings.

1.2.3 The Specifications and Drawings are to be interpreted as a whole. In an event of conflict between the documents, the better quality or greater quantity of work or materials shall be performed or furnished.

1.2.4 The organization of the Specifications into divisions, sections and articles, and the arrangement of the 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.

1.2.5 Where any section of General Conditions is modified or deleted, or any paragraph, subparagraph or clause thereof is modified or deleted, unaltered provisions of that section, paragraph, subparagraph or clause remain in full force and effect.

ARTICLE 2

ARCHITECT/ENGINEER

2.1 DEFINITION

- 2.1.1 Architect/Engineer (or “A/E”) is a person registered as an architect pursuant to Chapter 1051, Tex. Occ. Code, or a person defined as an engineer pursuant to Chapter 1001, Tex. Occ. Code. The term Architect/Engineer, as used in these General Conditions, shall include Architects, Engineers, or person having both skills. The term is used for ease of reference and does not imply skills, which may not apply to the professional utilized in this Project. The definition of Architect/Engineer shall also include those consultants registered as a landscape architect pursuant to Chapter 1051, Tex. Occ. Code, registered as a professional engineer pursuant to Chapter 1001, Tex. Occ. Code, and other firms employed to provide professional architectural or engineering services and having overall responsibility for the design of a project or a significant portion thereof. The Architect/Engineer is referred to throughout the Contract Documents as if singular in number and masculine in gender.

2.2 ADMINISTRATION OF THE AGREEMENT

- 2.2.1 The administration of the Agreement shall commence with the award of the Agreement, and shall terminate upon receipt of all closeout documentation and deliverables and certification of final payment of the Agreement by the Owner. The contracting plan will be based on a single CONTRACTOR (the “CONTRACTOR”).
- 2.2.2 The Architect/Engineer will administer the Agreement as hereinafter described. The Architect/Engineer will be the Owner's representative during the Project on matters related to the intent and interpretation of the Contract Documents. The Architect/Engineer will advise and consult with the Owner. The Architect/Engineer will have authority to act on behalf of the Owner only to the extent provided in the Agreement.
- 2.2.3 The Architect/Engineer will visit the site at intervals appropriate to the stage of construction to familiarize himself with the progress and quality of the Work and to determine if the Work is proceeding in accordance with the Contract Documents. However, the Architect/Engineer will not be required to make continuous on-site inspections to check the quality or quantity of the Work. Based on his on-site observations as an architect/engineer, he will keep the Owner informed of the progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work.
- 2.2.4 Neither the Architect/Engineer nor the Owner will be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work. Neither the Architect/Engineer nor the Owner will be responsible for or have control or charge over the acts or omissions of the CONTRACTOR, Subcontractors, or any of their agents or employees, or any other person performing any of the Work or failure of any of the aforementioned to carry out the Construction Work in accordance with the Agreement Documents.
- 2.2.5 The Architect/Engineer and the Owner shall at all times have access to the Work wherever it is in preparation or progress. The CONTRACTOR shall provide facilities for such access so the Architect/Engineer and the Owner may perform their respective functions under the Agreement.
- 2.2.6 The Architect/Engineer shall render interpretations necessary for the proper execution or progress of the Construction Work with reasonable promptness upon receipt of a written request from the Owner or the CONTRACTOR. Interpretations and decisions of the

Architect/Engineer shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in written and/or graphic form. In his capacity as interpreter, he will endeavor to secure faithful performance by the CONTRACTOR.

- 2.2.7 The Architect/Engineer shall have the authority, with the concurrence of the Owner, to reject Work that does not conform to the Agreement Documents. When, in the Architect/Engineer's reasonable opinion, it is necessary or advisable in order to implement the intent of the Agreement Documents, the Architect/Engineer shall, with the Owner's prior approval, have authority to require special inspection or testing of the Construction Work in accordance with the provisions of the Agreement, whether or not such Construction Work be then fabricated, installed or completed.
- 2.2.8 However, neither the Architect/Engineer's nor the Owner's authority to act under this subparagraph 2.2., nor any decision made by them in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Architect/Engineer or the Owner to the CONTRACTOR, any Subcontractor, any of their agents or employees, or any other person performing any of the Work.
- 2.2.9 Upon receipt from the CONTRACTOR of a request for a Substantial Completion inspection with a list of items to be completed or corrected, the Architect/Engineer and Owner will perform an inspection. As a result of this inspection, the Architect/Engineer will prepare a punch list of the items needing correction. Upon determination by the Owner that the Construction Work has been substantially completed, the Architect/Engineer will issue a Certificate of Substantial Completion.
- 2.2.10 After the CONTRACTOR completes the required corrections, and notifies the Architect/Engineer, then the Owner will accompany the Architect/Engineer and the CONTRACTOR on the final inspection to ensure that the Construction Work has been completed in accordance with the Contract Documents and to the satisfaction of the Owner and the Architect/Engineer. Architect/Engineer will notify the Owner in writing that the Construction Work has been performed according to the Agreement Documents.
- 2.2.11 Upon final completion and final payment, the Architect/Engineer shall receive from the CONTRACTOR and inspect all warranties, guarantees, bonds, O&M manuals and similar required material to make sure that all such materials are received and satisfy the requirements of the Agreement Documents. The Architect/Engineer will send to the Owner for review these closeout documents, and will issue a final Certificate for Payment upon compliance with the requirements of paragraph 9.9.
- 2.2.12 In case of the termination of the employment of the Architect/Engineer, the Owner shall appoint an architect/engineer, against whom the CONTRACTOR makes no reasonable objection, whose status under the Agreement shall be that of the former Architect/Engineer.

ARTICLE 3

THE OWNER

3.1 DEFINITION

- 3.1.1 The Owner is the Enterprise and shall be referred to as if singular in number and masculine in gender. The term Owner means the Board of Managers or the Enterprise Facilities Manager (the “Director”), or authorized representative of the Director.

3.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

- 3.2.1 Unless otherwise provided in the Contract Documents, the Owner will furnish all surveys describing the physical characteristics, legal limitations, and utility locations for the site of the Project, and a legal description of the site.
- 3.2.2 Except as provided in subparagraph 4.7.1, or unless otherwise provided in the Contract Documents, the Owner shall secure and pay for necessary rights of way and easements required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.
- 3.2.3 Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work.
- 3.2.4 The Owner shall forward all instructions to the CONTRACTOR in writing. No communication or direction from the Owner shall be interpreted as a change to the Agreement unless provided in writing and processed as a Change Order in accordance with Article 12, Changes in Work.
- 3.2.5 The Owner shall approve and monitor the Schedule.
- 3.2.6 The Owner shall observe the construction work for quality assurance, and notify the CONTRACTOR in writing of defective work. This activity does not relieve the Architect/Engineer of his responsibility for construction observations as noted in subparagraph 2.2.4. The Owner’s right to accept defective work is described in the Agreement and in Article 13.
- 3.2.7 The foregoing are in addition to other duties and responsibilities of the Owner set forth in the Agreement and in these General Conditions.

3.3 OWNER’S RIGHT TO STOP THE WORK

- 3.3.1 If the CONTRACTOR fails to correct defective work as required by Article 13 or persistently fails to carry out the Work in accordance with the Agreement, the Owner may, in writing, order the CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated. However, this right of the Owner to stop the Work shall not give rise to any 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 subparagraph 6.1.3.

ARTICLE 4

CONTRACTOR

4.1 DEFINITION

- 4.1.1 The CONTRACTOR is the person or entity identified as such in the Agreement and shall be referred to as if singular in number and masculine in gender. The term CONTRACTOR means the CONTRACTOR or his authorized representative.

4.2 REVIEW OF CONTRACT DOCUMENTS

- 4.2.1 The CONTRACTOR shall exercise due diligence in carefully studying the Contract Documents and shall report to the Architect/Engineer and the Owner, in a timely manner, any error, inconsistency or omission he may discover. The report shall be in the form of a Request for Information (RFI).
- 4.2.2 If the CONTRACTOR observes that any of the Contract Documents are at variance with applicable laws, statutes, building codes, or regulations in any respect, he shall promptly notify the Architect/Engineer and the Owner in writing. Any necessary changes shall be accomplished by appropriate modification, as described in the Agreement.

4.3 SUPERVISION AND CONSTRUCTION PROCEDURES

- 4.3.1 The CONTRACTOR shall supervise and direct the Work, using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.
- 4.3.2 The CONTRACTOR shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the CONTRACTOR.
- 4.3.3 The CONTRACTOR shall not be relieved from his obligations to perform the Work either by the activities or duties of the Architect/Engineer in his administration of the Agreement, or by inspections, tests, or approvals required or performed under **Article 7** by persons other than the CONTRACTOR.
- 4.3.4 In the execution of the Agreement, the CONTRACTOR must comply with all applicable state and federal laws, including but not limited to laws concerned with labor, equal employment opportunity, safety and minimum wages. The CONTRACTOR shall make himself familiar with and at all times shall observe and comply with all applicable federal, state and local laws, ordinances and regulations which in any manner affect the conduct of the Work, and shall indemnify, save and hold harmless the Owner and its official representatives against any claim arising from violation of any such law, ordinance or regulation by himself or by his Subcontractor or his employees.

4.4 LABOR AND MATERIALS

- 4.4.1 Unless otherwise provided in the Agreement, the CONTRACTOR shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

- 4.4.2 The CONTRACTOR shall at all times observe and conduct himself with strict discipline and shall enforce such strict discipline and good order among his employees. The CONTRACTOR shall not employ to perform the Work any unfit person or anyone not skilled in the task assigned to him. The CONTRACTOR and all workers employed by him shall have such skill and experience as will enable them to properly perform the duties assigned them. If, in the opinion of the Owner, the CONTRACTOR, or any person employed by the CONTRACTOR or a Subcontractor, does not perform the Work in a proper and skillful manner, or is disrespectful, intemperate, disorderly, or otherwise objectionable, such person shall at the written request of the Owner be forthwith removed from the Project. If the person so removed is employed by the CONTRACTOR or a Subcontractor, such person shall be discharged and shall not be employed again on any portion of the Work without the written consent of the Owner. If the person so removed is the CONTRACTOR himself, the Owner may treat the incident, giving rise to such removal as a breach of contract and may enforce any and all remedies for default provided herein. The CONTRACTOR shall furnish such suitable machinery, equipment, and construction forces as may be necessary, in the opinion of the Owner, for the proper prosecution of the Work.
- 4.4.3 The risk of loss of the materials and equipment shall not pass to the Owner until final payment takes place. Title transfers to the Owner upon interim construction payments for such materials and equipment.

4.5 **WARRANTY**

- 4.5.1 The CONTRACTOR represents and warrants to the Owner and the Architect/Engineer that all materials and equipment furnished under this Agreement will be new unless otherwise specified, and that the Work will be of good quality, free from faults and defects, and in conformance with the Agreement. Any portion of the Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Owner, the CONTRACTOR shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The CONTRACTOR further represents and warrants to the Owner that all items delivered and all services rendered will conform to the Agreement Documents, and will be of merchantable quality, good workmanship, and free from defects. Return of merchandise under warranty shall be at the CONTRACTOR's expense.

4.6 **TAXES**

- 4.6.1 The CONTRACTOR shall comply with the provisions set forth in the Agreement regarding all sales, consumer, use, and other similar taxes for the Work or portions thereof.

4.7 **PERMITS, FEES, AND NOTICES**

- 4.7.1 The CONTRACTOR shall cooperate with applicable city or other governmental officials at all times where their jurisdiction prevails. The CONTRACTOR shall secure and pay for the building permit (as applicable) and for all permits, permanent utilities and governmental fees, licenses, and inspections necessary for the proper execution and completion of the Work which are legally required at the time the Bids are received.
- 4.7.2 The CONTRACTOR shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the Work. The Parties acknowledge that some of the ordinances, rules, regulations or orders of some public authorities may not be enforceable against a The Parties project.

- 4.7.3 If the CONTRACTOR performs any Work when he knows or should know it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Architect/Engineer and the Owner, he shall assume full responsibility and shall bear all costs attributable thereto.

4.8 **SUPERINTENDENT**

- 4.8.1 The CONTRACTOR shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the Work. The superintendent shall be satisfactory to the Owner and shall not be changed without written approval of the Owner. The superintendent shall represent the CONTRACTOR and all communications given to or by the superintendent shall be as binding as if given to or by the CONTRACTOR. Important communications shall be confirmed in writing.

4.9 **CUTTING AND PATCHING OF WORK**

- 4.9.1 The CONTRACTOR shall be responsible for all cutting, fitting, or patching that may be required to complete the Work or to make its several parts fit together properly.
- 4.9.2 The CONTRACTOR shall not damage or endanger any portion of the Work or the work of the Owner or the work of any contractors by cutting, patching or otherwise altering any work, or by excavation. The CONTRACTOR shall not cut or otherwise alter the work of the Owner or any other contractor except with the written consent of the Owner and of such other contractor. The CONTRACTOR shall not unreasonably withhold from the Owner or any other contractor his consent to cutting or otherwise altering the Work.

4.10 **CLEANING UP**

- 4.10.1 The CONTRACTOR at all times shall keep the worksite free from accumulation of waste materials or rubbish caused by his operations. At the completion of the Work, he shall remove all his waste materials and rubbish from and about the Project as well as all his tools, construction equipment, machinery, and surplus materials.
- 4.10.2 If the CONTRACTOR fails to clean up at the completion of the Work, the Owner may do so as provided in paragraph 3.4 and the cost thereof shall be charged to the CONTRACTOR.

4.11 **COMMUNICATIONS**

- 4.11.1 The CONTRACTOR shall forward all communications to the Owner with information copy to the Architect/Engineer. Requests for technical information may be forwarded directly to the Architect/Engineer with information copy to the Owner. The CONTRACTOR shall advise the Architect/Engineer and the Owner of coordination needs with other contractors on the Owner's property.

4.12 **ROYALTIES AND PATENTS; INTELLECTUAL PROPERTY INDEMNIFICATION**

- 4.12.1 The CONTRACTOR shall pay all royalties and license fees. If the CONTRACTOR has reason to believe that the design, process, or product specified is an infringement of a patent or other proprietary or intellectual property right of any third party, he shall be responsible for such loss

unless he promptly gives such information to the Owner in writing. The CONTRACTOR warrants that all applicable patents, copyrights or other proprietary or intellectual property rights of any third party that may exist on items that will be supplied under the Agreement have been adhered to and further warrants that the Owner shall not be liable for any infringement of those rights. Warranties granted the Owner shall apply for the duration of this Agreement or for the life of equipment or supplies purchased, whichever is longer. The Owner must not extend use of the granted exclusive rights to any party other than the Owner's employees or those persons with whom the Owner has established a relationship aimed at furthering the public interest, and then only for official public uses. The Owner will not knowingly or intentionally violate any applicable patent, license, copyright or other proprietary or intellectual property right of any third party.

4.13 RESPONSIBILITY FOR DAMAGE CLAIMS

4.13.1 THE CONTRACTOR AGREES TO INDEMNIFY, SAVE, AND HOLD HARMLESS THE OWNER, ITS AGENTS AND EMPLOYEES FROM ALL SUITS, ATTORNEYS' FEES, ACTION OR CLAIMS AND FROM ALL LIABILITY AND DAMAGES FOR ANY AND ALL INJURIES, DEATH OR DAMAGES SUSTAINED BY ANY PERSON OR PROPERTY IN CONSEQUENCE OF ANY NEGLIGENCE, ERROR OR OMISSION IN THE PERFORMANCE OF THE AGREEMENT BY THE CONTRACTOR AND FROM ANY CLAIMS OR AMOUNTS ARISING OR RECOVERED UNDER THE WORKERS' COMPENSATION LAWS, THE TEXAS CIVIL PRACTICE & REMEDIES CODE SECTION 101.002, ET SEQ. (TEXAS TORT CLAIMS ACT) OR ANY OTHER LAWS WHETHER HE IS WHOLLY OR PARTIALLY AT FAULT. HE SHALL FURTHER SO INDEMNIFY AND BE RESPONSIBLE FOR ANY AND ALL INJURIES, DEATH OR DAMAGES SUSTAINED BY ANY PERSON OR LIABILITY OR DAMAGES TO PROPERTY OF ANY CHARACTER OCCURRING OR RESULTING FROM ANY ACT, OMISSION, NEGLIGENCE OR MISCONDUCT ON HIS PART IN THE MANNER OR METHOD OF EXECUTING THE WORK; OR FROM FAILURE TO PROPERLY EXECUTE THE WORK; OR FROM DEFECTIVE WORK OR MATERIALS.

4.13.2 The CONTRACTOR shall not be released from these responsibilities until all claims have been settled and suitable evidence to that effect furnished to the Owner.

4.13.3 The CONTRACTOR's attention is directed to the fact that all hidden utilities and installations as may be shown on the plans have been taken from the best available information. The Owner makes no representations that information provided is complete or accurate. There may be other utilities or installations. The CONTRACTOR shall proceed with appropriate caution and shall save and hold harmless the Owner from any and all suits or claims resulting from damage by his operations to any pipeline or underground installation.

4.14 WAGE RATES

4.14.1 The CONTRACTOR is required to pay not less than the wage scale of the various classes of labor as shown on the "Prevailing Wage Schedule" provided by the Owner. The specified wage rates are minimum rates only, and the Owner will not consider any claims for additional compensation made by the CONTRACTOR because of payment by the CONTRACTOR of any wage rates in excess of the applicable minimum rate contained in the Prevailing Wage Schedule.

4.14.2 Pursuant to the provisions of Chapter 2258, Texas Government Code, the CONTRACTOR shall forfeit as a penalty to the Owner, sixty dollars (\$60.00) for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, if such laborer, workman or mechanic is paid less than the

said stipulated minimum rates for any work done under the Agreement, by him, or by any Subcontractor under him. The CONTRACTOR and each Subcontractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workers and mechanics paid less than the said stipulated minimum rates for any work done under the Agreement, by him, or by any Subcontractor under him. The CONTRACTOR and each Subcontractor shall keep, or cause to be kept, accurate records showing the names and occupations of all laborers, workers and mechanics employed in connection with the Work, and showing the actual per diem wages paid to such workers, which record shall be open at all reasonable hours for the inspection by the Owner. In the event of any such wage rate violation, the penalty shall be in addition to the proper restitution of wages. The restitution may become a condition of future payment by the Owner.

- 4.14.3 Certain public works require under the minimum wage schedule to list not only "Building Construction" wage rates but also "Incidental Paving and Utilities" wage rates. The CONTRACTOR's attention is called to the fact that all classes of work within the area of the building shall be paid "Building Construction" wage rates. A set of the applicable labor rates for public works projects is set forth in Attachment M of the IFB.

4.15 **CLAIMS FOR DAMAGES**

- 4.15.1 Should the CONTRACTOR suffer injury or damage to person or property because of any act or omission of the Owner or of any of his employees, agents, or others for whose acts he is legally liable, the claim shall be made in writing to the Owner within ten (10) calendar days after the first observance of such injury or damage.

4.16 **INDEPENDENT CONTRACTOR**

- 4.16.1 The Parties expressly acknowledge and agree that CONTRACTOR is an independent contractor, operating solely in that capacity, and assumes all of the rights, obligations and liabilities applicable to him as an independent contractor. No employee of CONTRACTOR shall be considered an employee of OWNER, or gain any rights against OWNER pursuant to the OWNER'S personnel policies. Both parties expressly acknowledge and agree that none of CONTRACTOR'S employees have a contractual relationship with the OWNER.

ARTICLE 5

SUBCONTRACTORS

5.1 **DEFINITION**

- 5.1.1 "Subcontractor" is defined in Article 2 of the Agreement.
- 5.1.2 A "Sub-subcontractor" means a person or entity who has a direct or indirect contract with a Subcontractor or another Sub-subcontractor to perform any of the Work. The term Sub-subcontractor is referred to as if singular in number and masculine in gender and means a Sub-subcontractor or an authorized representative thereof.

5.2 **AWARD OF SUBCONTRACT AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

- 5.2.1 The CONTRACTOR's identification of, Owner's objection to, and proposed substitution of Subcontractors shall comply with Article 5 of the Agreement.

5.3 SUBCONTRACTUAL RELATIONS

- 5.3.1 By an 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 the terms of the Agreement, and to assume toward the CONTRACTOR all the obligations and responsibilities which the CONTRACTOR, by the Agreement, assumes toward the Owner and the Architect/Engineer. The agreement shall preserve and protect the rights of the Owner and the Architect/Engineer under the Agreement with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice the Owner's nor the Architect/Engineer's rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the CONTRACTOR-Subcontractor agreement, the benefit of all rights, remedies, and redress against the CONTRACTOR that the CONTRACTOR, by the Agreement, has against the Owner. Where appropriate, the CONTRACTOR shall require each Subcontractor to enter into similar agreements with his Sub-subcontractors. The CONTRACTOR shall make available to each proposed Subcontractor, prior to the execution of the subcontract, a copy of the Agreement to which the Subcontractor will be bound by this paragraph 5.2, and identify to the Subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Agreement. Each Subcontractor shall similarly make copies of such documents available to his Sub-subcontractors.

ARTICLE 6

WORK BY THE OWNER OR BY SEPARATE CONTRACTORS

6.1 THE OWNER'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

- 6.1.1 The Owner reserves the right to perform work related to the Project with his own forces, and award separate contracts in connection with other portions of the Project.
- 6.1.2 When separate contracts are awarded for different portions of the Project or other work on the site, the term Contractor in the Agreement in each case shall mean the Contractor who executes such separate Agreement for Construction Services.
- 6.1.3 The CONTRACTOR shall coordinate the Work with other contractors and with the Owner and the Owner's labor crews.

6.2 MUTUAL RESPONSIBILITY

- 6.2.1 The CONTRACTOR shall afford the Owner and other contractor's reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall connect and coordinate his Work with theirs as required by the Agreement.
- 6.2.2 If any part of the Work depends for proper execution or results upon the work of the Owner or any other contractor, the CONTRACTOR shall, prior to proceeding with the Work, promptly report to the Architect/Engineer any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the CONTRACTOR so to

report shall constitute an acceptance of the Owner's or separate contractors' work as fit and proper to receive his Work.

- 6.2.3 CONTRACTOR may share responsibility for defective work not reported, yet known by CONTRACTOR to be deficient.
- 6.2.4 Should the CONTRACTOR wrongfully cause damage to the Work or property of the Owner or to other work on the site, the CONTRACTOR shall promptly remedy such damage as provided in subparagraph 10.2.5.
- 6.2.5 Should the CONTRACTOR wrongfully cause damage to the Work or property of any other contractor, the CONTRACTOR shall upon due notice promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues or initiates a proceeding against the Owner on account of any damage alleged to have been caused by the CONTRACTOR, the Owner shall notify the CONTRACTOR who shall defend such proceedings at the CONTRACTOR's expense. If any judgment or award against the Owner arises therefrom, the CONTRACTOR shall pay or satisfy it and shall reimburse the Owner for all attorneys' fees and court or other costs, which the Owner has incurred. The Owner shall have the right to select counsel for any such defense.

6.3 THE OWNER'S RIGHT TO CLEAN UP

- 6.3.1 If a dispute arises between the CONTRACTOR and other contractors as to their responsibility for daily and other periodic cleaning up as required by paragraph 4.15, the Owner may clean up and charge the cost thereof to the contractors the Owner determines responsible therefor.

ARTICLE 7

TESTING

- 7.1 If the Agreement, applicable laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested, or approved, the CONTRACTOR shall give the Owner and Architect/Engineer timely notice of its readiness so the Owner and Architect/Engineer may observe such inspection, testing, or approval. The CONTRACTOR shall bear all costs of such inspections, tests, or approvals required by public authorities. Unless otherwise provided, the Owner shall bear all costs of other inspections, tests, or approvals. The CONTRACTOR acknowledges and agrees that Gov't Code Chapter 2269 requires that the Owner must provide or contract for, independently of the CONTRACTOR, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the Owner. The Owner shall select those services in accordance with Section 2254.004, Gov't Code.
- 7.2 If the Architect/Engineer determines that any portion of the Work requires special inspection, testing, or approval, which paragraph 7.1, does not include, he will, upon written authorization from the Owner, instruct the CONTRACTOR to order such special inspection, testing or approval, and the CONTRACTOR shall give notice as provided in paragraph 7.1. The Owner shall bear the costs of such tests, and an appropriate amendment shall be issued.
- 7.3 If any special inspection or testing reveals a failure of the Work to comply with the requirements of the Agreement, the CONTRACTOR shall bear all costs thereof and of any subsequent testing, including compensation for the Owner and Architect/Engineer's additional services made necessary by such failure.

- 7.4 Required certificates of inspection, testing or approval shall be requested by the CONTRACTOR and promptly delivered by him to the Architect/Engineer. After reviewing the certificates of inspection, the Architect/Engineer will forward the certificates to the Owner with approvals or recommendations as appropriate.
- 7.5 If the Architect/Engineer is to observe the inspections, tests, or approval required by the Agreement, he would do so promptly and, where practicable, at the source of supply.
- 7.6 The Architect/Engineer may require materials to be inspected, tested and approved before being incorporated in the Work. Any of the Work in which such materials are used without prior required test and approval or written permission of the Architect/Engineer may be ordered removed and replaced at the CONTRACTOR's expense. The selection of the method of testing shall be designated by the Owner. When requested, the CONTRACTOR shall furnish a complete written statement of the origin, composition, and/or manufacture of any or all materials that are to be used in the Work. The Owner may contract with an independent testing laboratory to perform field- t e s t i n g . Where the CONTRACTOR notifies the Owner of scheduled Work requiring sampling and testing and the CONTRACTOR cancels the Work for any reason whatsoever after the laboratory personnel have departed their office for the project site, the testing laboratory shall bill the Owner for their time and travel expenses and the Owner shall deduct said charges from amounts due the CONTRACTOR.
- 7.7 **Intentionally Deleted**
- 7.8 **PRETESTED MATERIALS**
- 7.8.1 Subject to conditions established in a written agreement between a supplier and the Architect/Engineer, pretested and approved materials may be incorporated into the Work.
- 7.9 **SOURCES OF SUPPLY AND QUALITY OF MATERIALS**
- 7.9.1 At his option, the Architect/Engineer may sample and test materials to determine compliance with the Agreement Documents before delivery is started. If it is found after testing that sources of supply previously approved do not produce uniform and satisfactory products, or if the product from any source proves unacceptable at any time, the CONTRACTOR shall furnish materials from other approved sources. Only materials conforming to the requirements of the Agreement Documents and approved by the Architect/Engineer shall be used in the Work. All materials being used are subject to inspection or test at any time during their preparation or use. Any material which has been tested and accepted at the source of supply may be subjected to a check test after delivery and all materials which, when retested, do not meet the requirements of the Specifications, will be rejected. No material, which, after approval, has in any way become unfit for use shall be used in the Work.
- 7.9.1.1 If, for any reason, the CONTRACTOR selects a material which is approved for use by the Architect/Engineer by sampling and testing or other means, and then decides to change to a different material requiring additional sampling and testing for approval, the expense for such sampling and testing may be deducted from any monies due or to become due to the CONTRACTOR.
- 7.9.2 Where reference is made to the test procedures, ASTM, AASHTO or bulletins for the quality of materials or sampling and testing, the latest standard, tentative standard or bulletin issued prior to the date of the Bid shall govern.

ARTICLE 8

TIME

8.1 DEFINITIONS

- 8.1.1 Unless otherwise provided, the "Contract Time" is the period of time allotted in the Contract Documents for Substantial Completion of the Work as defined in subparagraph 8.1.3, including authorized adjustments thereof.
- 8.1.2 The "Date of Commencement" of the Work is the date established in the Notice to Proceed. If there is no Notice to Proceed, it shall be the date of the Agreement or such other date as may be established therein.
- 8.1.3 The date of "Substantial Completion" of the Work or designated portion thereof is the date approved by the Owner and certified by the Architect/Engineer when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner can occupy or utilize the Work or designated portion thereof for the use for which it is intended. A Certificate of Occupancy or Temporary Certificate of Occupancy, issued by the governing authority, is required for Substantial Completion unless waived by the Owner.
- 8.1.4 The word "day" as used in the Contract Documents shall mean a calendar day.

8.2 DELAYS AND EXTENSIONS OF TIME

- 8.2.1 When a delay defined herein as excusable prevents the CONTRACTOR from completing the work within the Contract Time, the CONTRACTOR may be entitled to an extension of time, and in certain instances to compensation for the direct cost of delay, as set forth in 8.3.1.3. The Contract Time shall be extended by the number of calendar days lost by reason of excusable delay, as measured by the CONTRACTOR's Schedule (or current update). All extensions of time shall be given in calendar days. In no event will an extension of time be granted for delays that merely extend the duration of non-critical activities, or which consume only float without delaying the Project completion date.

8.3 FORCE MAJEURE

- 8.3.1 If the performance by either party of any of its obligations under the Agreement is interrupted or delayed due to an act of God or the common enemy or as the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party to the Agreement, then it shall be excused from performance for such period of time as is reasonably necessary to remedy the effects thereof.

ARTICLE 9

PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY REGULATIONS

- 9.1.1 It shall be the duty and responsibility of the CONTRACTOR to be familiar with and comply with all requirements of Public Law 91-596, 29 U.S.C. Secs. 651 et seq., the Occupational Safety and Health Act of 1970. (OSHA) and all amendments thereto, and to strictly enforce and comply with all of the provisions of the Act.
- 9.1.2 The CONTRACTOR shall have a copy of the current applicable OSHA safety and health regulations on site.
- 9.1.3 CONTRACTOR shall be responsible for any fines, penalties or charges by any regulatory body by reason of any violation of safety or health regulations by the CONTRACTOR or Sub-contractor.

10.2 SAFETY OF PERSONS AND PROPERTY

The Provisions of this Article 10 shall be referred to collectively as the “Safety Program”.

- 9.2.1 The CONTRACTOR shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury, or loss to:
 - 9.2.1.1 All employees on the Work and all other persons who may be affected thereby;
 - 9.2.1.2 All the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody, or control of the CONTRACTOR or any of his Subcontractors or Sub-subcontractors; and
 - 9.2.1.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.
- 9.2.2 The CONTRACTOR shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority or authority having jurisdiction bearing on the safety of persons or property for their protection from damage, injury, or loss.
- 9.2.3 The CONTRACTOR shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent utilities.
- 9.2.4 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the CONTRACTOR shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.
- 9.2.5 The CONTRACTOR shall promptly remedy all damage or loss to any property referred to in paragraph 6.2.4 and clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the CONTRACTOR, any Subcontractor, any Sub-subcontractor, or anyone directly or indirectly

employed by any of them, or by anyone for whose acts any of them may be liable and for which the CONTRACTOR is responsible under clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to the acts or omissions of the Owner or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the CONTRACTOR. The foregoing obligations of the CONTRACTOR are in addition to his obligations under paragraph 4.18.

9.2.6 The CONTRACTOR shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents.

9.2.7 The CONTRACTOR shall not load or permit any part of the Work to be loaded so as to endanger the safety of the CONTRACTOR or the work.

10.3 EMERGENCIES

In any emergency affecting the safety of persons or property, the CONTRACTOR shall act, at his discretion, to prevent threatened damage, injury, or loss. Any additional compensation or extension of time claimed by the CONTRACTOR on account of emergency work shall be determined as provided in Article 12 Changes in Work.

10.4 CONTRACTOR DUTIES FOR SAFETY PROGRAM

9.4.1. The CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. This requirement applies continuously and is not limited to normal working hours.

9.4.2. Temporary items such as, but not limited to; scaffolding, staging, lifting, and hoisting devices, barricades, and safety and construction procedures necessary for completion of the Project shall be the responsibility of the CONTRACTOR and his sub-contractors and shall comply with all applicable codes and regulations. It shall not be the responsibility of the Owner, as defined herein, or their representatives to determine if the CONTRACTOR, a sub-contractor or their representatives are in compliance with the aforementioned regulations.

10.5 SAFETY PLANNING

9.5.1. The effectiveness of the Safety Program depends upon the active participation and sincere cooperation of all Contractors' employees and the coordination of their efforts in carrying out the following basic responsibilities. It shall be the responsibility of all Contractors to:

9.5.1.1. Properly plan all work to eliminate personal injury, property damage, and the loss of productive efforts.

9.5.1.2. Establish and maintain a system for early detection and correction of unsafe practices and conditions.

9.5.1.3. Provide adequate protection for adjacent public and private properties and to ensure the safety of the public at all times.

- 9.5.1.4. Establish and conduct safety education programs designed to gain, stimulate and maintain the interest and active participation of all employees through:
 - 9.5.1.4.1. Safety meetings and communication.
 - 9.5.1.4.2. Investigation of accidents/incidents that have caused or could cause injuries and damage to determine the cause and the taking of necessary corrective actions.
 - 9.5.1.4.3. Use of proper work procedures, personal protective equipment and mechanical guards.
 - 9.5.1.4.4. Safety instruction for individual employees and safety training programs.
 - 9.5.1.4.5. Maintenance of records of accidents, incidents and losses and development of injury/losses experience summaries.

9.6. ADMINISTRATION AND ORGANIZATION

- 9.6.1. All Contractors and Sub-contractors working on the Project shall designate an experienced and competent onsite “Safety Representative”.
 - 9.6.1.1. The name of the onsite Safety Representative will be provided to the Owner prior to the CONTRACTOR or Sub-contractor starting Work at the job site.
 - 9.6.1.2. The Safety Representative shall have successfully completed the 10-hour minimum OSHA construction safety-training course prior to commencement of the Work.
 - 9.6.1.3. The CONTRACTOR shall submit a copy of its training certificates, issued by the training organization, as evidence of completion of the aforementioned safety training courses to the Owner prior to commencement of the Work.
 - 9.6.1.4. The Safety Representative shall be responsible for implementing the Safety Program, ensuring that job site safety requirements and procedures are being accomplished, conducting safety inspections of Work being performed, conducting weekly safety meetings with craft employees and submitting reports as identified in the Contract Documents.
 - 9.6.1.5. The Safety Representative shall have the authority to correct unsafe acts or conditions.
 - 9.6.1.6. The Safety Representative shall be responsible for a continuing survey of its operations, to ensure that the probable causes of injury or accident are controlled and that operating equipment, tools and facilities are used, inspected and maintained as required by applicable safety and health regulations.
 - 9.6.1.7. The Safety Representative shall make frequent and regular inspections of the job site. Unsafe acts and/or conditions noted during inspections shall be corrected immediately.

9.6.2. CONTRACTOR Construction Safety Responsibilities

- 9.6.2.1. All Contractors, Subcontractors and Sub-subcontractors working on this Project shall comply with this Safety Program and shall be responsible for its implementation and for providing the means and methods required for compliance.
- 9.6.2.2. The CONTRACTOR shall furnish all information concerning safety of his operation on the Project as may be reasonably required by Owner.
- 9.6.2.3. The CONTRACTOR shall develop, present, and ensure attendance and successful completion of each Contractor and Sub-contractor worker in a Site Specific Safety Orientation prior to their deployment on the jobsite and start of Work. The training will include topics specific to the scope of Work including:
 - 9.6.2.3.1. Procedures for emergency evacuation
 - 9.6.2.3.2. Hazardous material used on the job site.
 - 9.6.2.3.3. Proper work attire
 - 9.6.2.3.4. Personal protective equipment
 - 9.6.2.3.5. Reporting injuries and accidents
 - 9.6.2.3.6. Stopping/restarting work in an imminently hazardous situation
- 9.6.2.4. The CONTRACTOR shall instruct each employee on the job site in the recognition and avoidance of unsafe acts and/or conditions applicable to the Work environment to control or eliminate injury or illness. The CONTRACTOR shall enforce the Project and statutory safety rules with its employees.
- 9.6.2.5. The CONTRACTOR is responsible for notifying Owner of any hazardous chemicals or substances that are brought or caused to have been brought on the job site. The CONTRACTOR is responsible for the legal storage, use and disposal of waste of any hazardous chemicals or substances.
- 9.6.2.6. The CONTRACTOR shall provide Owner with a copy of CONTRACTOR's "Hazard Communication Program" and the "Material Safety Data Sheet(s)" (MSDS) for the chemical(s) or substance(s) intended for use on the site. A bookcase, centrally located, will be dedicated for this information. The CONTRACTOR is responsible for keeping this information current.
- 9.6.2.7. The CONTRACTOR and any subcontractors so notified shall make all reasonable efforts to correct unsafe conditions or acts. Satisfactory corrective action shall be taken within the specified abatement time. If the Sub-contractor refuses to correct unsafe or unhealthy conditions or acts, or eliminate fire hazards, Owner may take steps in accordance with the Agreement.
- 9.6.2.8. The CONTRACTOR shall require each of his Subcontractors (all tiers), vendors and suppliers to abide by the Project safety and health requirements.

- 9.6.2.9. The CONTRACTOR shall not load or permit any part of the Work to be loaded so as to endanger the safety of the CONTRACTOR or the Work.
- 9.6.2.10. The CONTRACTOR shall provide to Owner an emergency on-call phone number, suitable to contact the CONTRACTOR's representative 24 hours a day, seven days a week, during the duration of the Agreement and Work.
- 9.6.2.11. Tool Box Training – The CONTRACTOR and Subcontractors will hold weekly safety training in their work area with their entire crew.

9.7. STOPPING AND RESTARTING WORK

- 9.7.1. The Owner shall have the right to stop Work whenever safety violations are observed which could imminently jeopardize the well-being of personnel and equipment. The expense of any such Work stoppage and resultant standby time shall be charged to the CONTRACTOR and deducted from the next Application for Payment.
- 9.7.2. Work that has been stopped for safety reasons can only be restarted when the full corrective action have been implemented and the hazardous conditions or actions no longer exist. The decision to restart the Work will be made with the concurrence of Owner, the CONTRACTOR and his affected Sub- contractor(s) and will be documented in writing.
- 9.7.3. Fire Protection
 - 9.7.3.1. The CONTRACTOR is responsible for the development of the following programs and procedures:
 - a. a fire protection and prevention program,
 - b. a flame/spark/hot work permit procedure, and
 - c. a flammable/combustible liquid storage/dispensing procedure
 - 9.7.3.2. These programs and procedures are to conform to OSHA and NFPA standards and must be submitted to the Owner for review and acceptance prior to the commencement of Work.
 - 9.7.3.3. The CONTRACTOR shall be responsible for fire protection in his work and operational areas, including offices, tool rooms, and storage area 24 hours per day, seven days per week through the duration of the Agreement. Approved firefighting equipment, in adequate quantities must be provided and maintained by the CONTRACTOR and the Contractors employees must be trained in the usage of such equipment.
 - 9.7.3.4. Fire protection equipment will be made available during all phases of construction.
- 9.7.4. All lifting and rigging procedures will be submitted to the Owner prior to lifting and erecting materials and/or equipment.

- 9.7.5. The CONTRACTOR shall immediately report all accidents and incidents relating to construction activity to the Owner. The primary responsibility for the accident/incident investigation lies with the CONTRACTOR. However, each Contractor is expected to cooperate to the fullest extent in the Owner's investigation of all accidents and incidents.
- 9.7.6. Personnel Clothing
- 9.7.6.1. Shirts shall be worn at all times. Sleeveless shirts and tank tops are not permitted. Long pants are required.
- 9.7.6.2. Hard leather work shoes/boots are required. Tennis type shoes, sandals, dock siders, hush puppies, steel-toed sneakers or bare feet are prohibited. Additional foot protection shall be worn for certain operations such as, operating tamping equipment or jackhammers and where employees handle or carry heavy tools, objects, etc. Contractors are urged to recommend safety shoes to be worn by all employees.
- 9.7.7. Personnel Protective Equipment
- 9.7.7.1. CONTRACTOR is responsible for determining, training in use, providing and requiring the use of appropriate personal protective equipment in all operations where there is an exposure to hazardous conditions. There will be specific job site requirements established by Owner. All records shall be maintained at a location accessible to the Owner.
- 9.7.7.2. Approved hard hats meeting specifications contained in American National Standards Institute (ANSI), Z16.89.1-1916.81 and/or Z16.89.2-1971 are required in the construction area at all times. CONTRACTOR's personnel must wear hard hats clearly marked with employee name, and company logo.
- 9.7.7.3. Safety glasses with attached side shields meeting ANSI Z87.1-1989 are required in construction areas at all times.
- 9.7.8. As required by OSHA, the CONTRACTOR shall designate all "Competent Persons" in writing to the Owner prior to such any work requiring their participation. Their qualifications for such designation as a Competent Person will be submitted with their designation.
- 9.7.8.1. Competent persons are required for areas that shall include but may not be limited to:
- a. Scaffolding
 - b. Excavation and Trenching
 - c. Fall Protection
 - d. Rigging Equipment
 - e. Cranes and Hoists
 - f. Aerial Lift Procedures
 - g. Sling and Wire Rope Inspection

- h. Demolition
- i. Fire Protection
- j. Ionizing Radiation
- k. Assured Grounding Conductor Program

9.7.9. First Aid

9.7.9.1. The CONTRACTOR shall have at least one onsite employee trained in first aid at all times, and that employee shall be able to administer first aid when needed.

9.7.9.2. The CONTRACTOR shall ensure that first aid supplies approved by the CONTRACTOR's consulting physician shall be easily accessible onsite when required.

9.7.10. The CONTRACTOR is responsible for maintaining a copy of "Contractor's Hazard Communication Program" and "Material Safety Data Sheet(s)" on site for the CONTRACTOR's own reference and employee training.

9.7.11. The use of explosives is strictly prohibited unless authorized in writing by the Owner and any other governing entities having jurisdiction in the locality of the Project. When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the CONTRACTOR shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.

9.7.12. Critical Lifts

9.7.12.1. Critical lifts are determined by any one of the following conditions:

- a. Individual loads weighing 30 tons or more
- b. Lifts requiring more than one crane to handle a common load Load exceeds eighty-five percent (85%) of the crane capability as shown on the applicable crane manufacturer's load charts for the configuration to be used.
- c. Items specially classified due to physical dimensions, susceptibility to internal damage and schedule impact.
- d. Parts, components, assemblies, or lifting operations designated as such because the effect of dropping, upset, or collision of items could:
 - 1) Cause significant delay
 - 2) Cause undetectable damage resulting in future operational or safety problems
 - 3) Result in significant release of radioactivity or other undesirable condition
 - 4) Present a potentially unacceptable risk of personal injury or property damage.

9.7.12.2. Critical lifts require a written rigging plan for handling operations, approved by the CONTRACTOR's superintendent and the CONTRACTOR's Safety Representative prior to lift.

9.7.13. Environmental

- 9.7.13.1. The CONTRACTOR shall notify the Owner of any hazardous waste it will generate during performance of the Work. The CONTRACTOR has the direct responsibility for maintaining proper storage of these wastes while on site and will verify to the Owner in writing that the wastes have been disposed of in a legal manner.
- 9.7.13.2. The CONTRACTOR shall keep the site, free from accumulation of water, no matter what source or cause. The CONTRACTOR shall dispose of water in such manner as will not endanger public health or cause damage or expense to Owner's or adjacent property. The CONTRACTOR shall comply with requirements of any public agencies having jurisdiction. If sewers and streets are allowed to be used for drainage or disposal of water during construction, the CONTRACTOR shall maintain and leave these satisfactorily clean upon completion of Work.
- 9.7.13.3. CONTRACTOR shall not pour, bury, burn, nor in any way dispose of a chemical on the job site.
- 9.7.13.4. CONTRACTOR shall, at its expense, provide suitable facilities to prevent the introduction of any substances or materials into any stream, lake or other body of water, which may pollute the water or constitute substances or materials deleterious to fish and wildlife.
- 9.7.13.5. CONTRACTOR shall perform the Work as not to discharge into the atmosphere from any source whatever, smoke, dust, or other air contaminants in violation of the laws, rules and regulations of the governmental entities having jurisdiction.

9.7.14. SEHWC IRCA Full Permit

- 9.7.14.1. CONTRACTOR shall follow the following Class IV construction category.

1. Obtain Infection Control Permit from Owner's Project Manager or Engineering Department before construction begins.	8. Provide adhesive walk off mats at entrance to work area within the anteroom. Replace used mats with new mats in accordance with manufacturer's recommendations.
2. Isolate HVAC system in area where work is being done to prevent contamination of duct system	9. Do not remove barriers from work area until complete project is inspected by Owner's Engineering Project Manager, Engineering Department and Infection Control
3. Complete all critical barriers or implement control cube method before construction begins.	

<p>4. Maintain negative air pressure within work site utilizing HEPA equipped air filtration units.</p> <p>5. Seal holes, pipes, conduits and punctures appropriately.</p> <p>6. Construct anteroom and require all personnel to pass through this room so they can be vacuumed using a HEPA vacuum cleaner before leaving work site or they can wear cloth or paper coveralls that are removed each time they leave the work site.</p> <p>7. All personnel entering the work site are required to wear shoe covers. Shoe covers must be changed each time the worker exits the work area.</p>	<p>Department, and thoroughly cleaned by the Owner's Environmental Services Department.</p> <p>10. Vacuum work area with HEPA filtered vacuums.</p> <p>11. Wet mop area with disinfectant.</p> <p>12. Remove barrier materials carefully to minimize spreading of dirt and debris associated with construction.</p> <p>13. Contain construction waste before transporting in tightly covered containers.</p> <p>14. Cover transport receptacles or carts.</p> <p>15. Remove isolation of HVAC system in areas where work is being performed.</p>
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9.7.14.2. CONTRACTOR will use different entrances depending on where they are working.

- By the loading dock for the work performed in unit V and also IV
 - They will need to cover the carpet between the loading dock and the work area
 - Evaluate placing a skip at the loading dock
- The staff entrance for some internal work
- The back entrance for the work on Convenient Care
- Dental access to the hallway for emergency exit
- CONTRACTOR is recommended to use alternate method to sandpaper after drywall floating and taping, to contain the dust.

ARTICLE 10

INSURANCE

10.1. CONTRACTOR'S/SUB-CONTRACTOR'S LIABILITY INSURANCE

10.1.1. The Contractor shall purchase and maintain liability insurance, and shall likewise ensure that all of his Subcontractors and their Sub-subcontractors purchase and maintain such insurance, as will protect them from claims set forth below which may arise out of or result from the Contractor's operations under the Construction Contract, whether such operations are carried out by the Contractor, by any Subcontractor or by anyone directly or indirectly employed by any of the, or by anyone for whose acts any of them may be liable:

10.1.1.1. Claims under workers' compensation laws, disability benefits, and other similar employee benefit acts.

10.1.1.2. Claims for damages because of bodily injury, occupational sickness or disease, or death of an employee.

- 10.1.1.3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than an employee.
- 10.1.1.4. Claims for damages insured by usual personal injury liability coverage, which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment or failure to offer employment, of such person by the Contractor, or (2) by any other person.
- 10.1.1.5. Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom.
- 10.1.1.6. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.
- 10.1.2. The insurance required by subparagraph 11.1.1 shall include contractual liability insurance applicable to the Contractor's obligations under paragraph 4.18.

10.2. OWNER'S LIABILITY INSURANCE

The Owner shall purchase and maintain an Owner's "All Risk" Protective Liability policy as will protect the Owner and his employees, agents, officers, elected officials, and consultants against claims which may arise from operations of the Contractor, his subcontractors, and their sub-contractors and/or premises which are the subject of the Construction Contract unless equivalent coverage is provided by Contractor's Commercial or Comprehensive General Liability policy.

10.3. PROPERTY INSURANCE

- 10.3.1. The Owner may purchase and maintain property insurance upon the entire Work at the site to the full insurable value thereof. This insurance shall include the interests of the Owner, the Contractor, Subcontractors, and Sub-subcontractors of the Work and shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss or damage including, without duplication of coverage, theft, vandalism, and malicious mischief.
- 10.3.2. The Owner may purchase and maintain such boiler and machinery insurance as may be required by the Contract Documents or by law. This insurance shall include the interest of the Owner, the Contractor, Subcontractors, and Sub-subcontractors of the Work.
- 10.3.3. Any loss insured under subparagraphs 11.3.1 and 11.3.2 is to be adjusted with the Owner and made payable to the Owner as trustee for the insureds, as their interests may appear. The Owner shall pay Contractor and its Subcontractors, direct, verified amounts of any insurance monies received by the Contractor, and by appropriate agreement shall require such Subcontractor to make payments to his Sub-subcontractors in similar manner.
- 10.3.4. The Owner may purchase insurance for risks other than those described in subparagraphs 11.3.1 and 11.3.2 in the Contract Documents.

10.3.5. The Owner as trustee shall deposit in a separate account any insurance proceeds so received, and he shall distribute it in accordance with such agreement as the parties in interest may reach.

10.3.6. The Owner as trustee shall have power to adjust and settle any loss with the insurers.

10.4. If the Owner finds it necessary to occupy or use a portion or portions of the Work prior to substantial completion thereof, such occupancy or use shall not commence prior to a time mutually agreed to by the Owner and Contractor and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. This insurance shall not be canceled or lapsed on account of such partial occupancy or use. Consent of the Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.

10.5. The Contractor shall be responsible for paying to repair any such losses as enumerated in Article 10 to the extent that such losses are not covered by the Owner's insurance, including all policy deductibles. The current property deductible is \$10,000.

10.6. INSURANCE SCHEDULES

10.6.1. The Contractor shall not commence Work under the Construction Contract until he has obtained all the insurance required hereunder and certificates of such insurance have been filed with and reviewed by the Owner. Acceptance of the insurance certificates by the Owner shall not relieve or decrease the liability of the Contractor. Owner shall be named as an additional insured on the policies. Contractor shall not change or modify the insurance coverage without prior notice to the Owner. The Owner shall be named as an additional insured on all Contractor policies.

10.6.2. Unless otherwise provided for in the Contract Documents, the Contractor shall provide and maintain, until the Work covered in the Construction Contract is completed and accepted by the Owner, the minimum insurance coverages in the following schedule. The minimum required limits may be achieved by purchasing an excess liability policy so long as such policy provides coverages at least as broad as the primary insurance.

10.6.2.1. Worker's Compensation and Employer's Liability Insurance

Worker's Compensation Insurance shall be as required by law and shall include an "all states" or "universal" endorsement.

Employer's Liability Insurance shall be written for not less than \$500,000 per occurrence.

Commercial General and Automobile Liability Insurance

Minimum Limits:

Per Occurrence \$1,000,000 Aggregate \$1,000,000

The following coverages must be specifically insured and certified with no internal sublimit. A separate aggregate limit is acceptable for the Products/Completed Operations hazard:

Independent Contractors Contingent Liability or Owners Protective Liability
Products/Completed Operations Liability

Contractual Liability

"X, C, U" Hazard Liability (if applicable)

Personal Injury Liability including claims related to employment

Broad Form Property Damage Liability or deletion of the "Care, Custody, and Control" exclusion

Owned, Hired and Non-Owned Automobile Liability

Waiver of Defense of Municipal Liability Immunity

Completed value form in an amount equal to the initial contract amount on a replacement cost basis.

The policy shall name as insured The Owner, General Contractor, and all subcontractors on an equal basis.

The policy shall be written on an "All Risk" form, to include at least the perils of Fire, Lightning and extended coverage theft, vandalism, malicious mischief, and collapse

This furnishing of the required insurance coverages, as may be modified by special Conditions, is one of the Contractor's initial requirements of the Construction Contract that must be performed before a Notice to Proceed can be issued, and if not provided within 15 calendar days after receipt of the Notice of Award, may result in forfeiture of the Contractor's Proposal Security. All insurance policies shall be open to inspection by the Owner, and copies of policies shall be submitted to the Owner upon written request.

The contractual liability is to be written on a blanket basis for all written or oral contracts, or specifically endorsed to acknowledge the contractual relationship between the insured and the Central Health.

All certificates of insurance shall provide that the insurance company shall give the Owner an affirmative statement, with no qualifications, that thirty (30) days prior written notice will be given to the Owner in the event of policy cancellation, non-renewal or material reduction in coverage provided under the policy, including impairment of any aggregate limits less than \$1,000,000.

A waiver of subrogation in favor of Central Health will be endorsed to all policies. Central Health will be named as an additional insured where the Owner's interest may appear.

ARTICLE 11

CHANGES IN WORK

11.1 CHANGE ORDERS

- 11.1.1. A “Change Order” is a written modification to the Agreement signed by the Owner, the Architect/Engineer, and the CONTRACTOR issued after award of the Agreement authorizing a change in the Work and an adjustment of the Contract Time. A change in Work Order and the Contract Time may be changed only by Change Order. A Change Order signed by the CONTRACTOR indicates his agreement therewith, including the adjustment in the price or the Contract Time.
- 11.1.2. Routine changes in the Agreement shall be formally initiated by the Architect/Engineer by means of a “Change Proposal Request” form detailing requirements of the proposed change. The CONTRACTOR shall prepare a Change Proposal (“CP”) based on the CPR form. This action may be preceded by communications between the CONTRACTOR, Architect/Engineer, and Owner concerning the need for and nature of the change, but such communications shall not constitute a basis for beginning the proposed Work by the CONTRACTOR. Except for emergency conditions defined in subparagraph 12.1.10 or for conditions described in subparagraph 12.2.3, approval of the CONTRACTOR's Change Proposal by the Architect/Engineer and Owner will be required for authorization to proceed with the Work being changed. Without prior approval, the CONTRACTOR may be required to remove Work so installed.
- 11.1.3. The cost or credit to the Owner resulting from change in the Work shall be determined in one or more of the following ways:
 - 11.1.3.1. by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
 - 11.1.3.2. by unit prices stated in the Contract Documents or subsequently agreed upon; or
 - 11.1.3.3. by a cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee. (The CONTRACTOR shall keep and present, in such form as the Architect/Engineer or the Owner may prescribe, an itemized accounting together with appropriate supporting data for inclusion in a Change Order.)
- 11.1.4. All proposed costs for Change Order Work must be supported by an itemized accounting of material, equipment, and associated itemized installation costs in sufficient detail to permit analysis by the Architect/Engineer and Owner using current estimating guides and/or prices. Photocopies of Subcontractor and significant vendor proposals supporting the CONTRACTOR's Change Proposal shall be furnished unless specifically waived by the Owner. The CONTRACTOR shall provide written response to a Change Proposal Request within ten (10) days of receipt, unless otherwise specified in the Supplementary Conditions.
- 11.1.5. Unless otherwise provided in the Contract Documents, the “Change Order Base Cost” shall be limited to the following:
 - 11.1.5.1. The total cost of materials and supplies, reflecting all available discounts, itemized by cost and quantity;

- 11.1.5.2. The total cost of all labor, including the cost of additional supervision, itemized to show man- hours by trade and classification and burdened hourly rates (which include social security tax, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance);
- 11.1.5.3. The rental value of equipment and machinery calculated for each type of equipment used in performing the changed Work, based on hours of use. Unless otherwise specified, prices for use of machinery and equipment shall be determined by using 80 percent of the latest schedule of "Equipment Ownership Expense" adopted by Associated General Contractors of America. Mobilization costs will not be allowed except when the CONTRACTOR demonstrates that the need to mobilize a piece of equipment arose solely because of the changed Work;
- 11.1.5.4. All transportation costs for delivery and handling of materials, equipment, and supplies, and the removal of waste or debris;
- 11.1.5.5. All storage costs in excess of thirty (30) days for materials and supplies, if necessitated solely by the changed Work;
- 11.1.5.6. Sales taxes are not to be included in charges for materials that are tangible personal property incorporated into the Project or completely consumed at the job site and services required by or integral to the performance of the Agreement, as provided in Texas Tax Code Section 151.311. Sales taxes are allowed on all other charges, including the cost of labor, overhead and materials, which do not become part of the finished Project or are not completely consumed at the jobsite. Such taxable charges shall be separated from non- taxable charges.
- 11.1.6. The amounts that the CONTRACTOR or a Subcontractor adds to the Change Order Base Cost for overhead and profit will also be considered by the Owner before approval is given. The amounts established hereinafter are the maximums that are acceptable to the Owner without a full and complete justification acceptable to the Owner.
 - 11.1.6.1. To the total of the Change Order Base Cost, the CONTRACTOR will be allowed to add a percentage as noted below to cover overhead and profit combined. Overhead shall be considered to include insurance other than mentioned above, office supervisors and assistants, use of small tools, incidental job burdens and general home office expense, and no separate allowance will be made therefor except as allowed under Article 8. Allowable percentages for overhead and profit on changes will be applied consistent with the WORK proposal.
 - 11.1.6.2. On changes involving both additions and deletions, percentages for overhead and profit will be allowed only on the net addition.
 - 11.1.6.3. The amount of credit to be allowed by the CONTRACTOR to the Owner for any deletion or change, which results in a net decrease in the Cost, will be the amount of the actual net cost.

- 11.1.6.4. No mark-up is authorized on the Change Order Base Cost of extended general conditions.
- 11.1.7. No payments can be made on such work until the final amount is agreed and the Change Order approved.
- 11.1.8. The execution of a Change Order by the Owner and the CONTRACTOR constitutes the full, final and complete settlement of all claims with regard to the modifications contained in the Change Order for foreseeable impacts on the Work or the Contract Time.
- 11.1.9. Emergency changes to save life or property may be initiated by the CONTRACTOR alone with the claimed cost of such Work to be fully documented as to necessity and detail of the reported costs in accordance with subparagraph 12.1.5.

11.2 CONSTRUCTION CHANGE DIRECTIVE

- 11.2.1 A Construction Change Directive, (a "CCD"), is a written order prepared by the Owner and signed by the Owner and Architect/Engineer, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Work or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Agreement, order changes in the Work within the general scope of the Agreement consisting of additions, deletions or other revisions, the Work, and the Contract Time being adjusted accordingly. All such changes in the Work shall be performed under the applicable conditions of the Contract Documents.
- 11.2.2 A Construction Change Directive shall be used if one of the following circumstances applies:
 - 11.2.2.1 If the CONTRACTOR fails to provide a written Change Proposal within 10 days of receiving a Change Proposal Request or fails or refuses to execute an agreed Change Order within the time required to prevent a delay to the Work Progress Schedule;
 - 11.2.2.2 If negotiations fail to achieve an agreed price; or
 - 11.2.2.3 If, in the Owner's judgment based on the Work Progress Schedule, a failure to authorize the CONTRACTOR to proceed with a Change Order under the normal process may adversely affect the timely completion of the Work.
- 11.2.3 Any unexpected circumstances which necessitates an immediate change in order to prevent damage to the Work in place, to avoid a delay in the Work Progress Schedule, or to maintain safety shall be expedited by verbal communication and authorization between the CONTRACTOR, Architect/Engineer and Owner with written Construction Change Directive following as soon as may be practical. Should consultation with all other interested parties be precluded by events, the Owner may act alone. A limiting not-to-exceed estimate of cost will be requested prior to authorizing Work to proceed. Should a cost estimate be impractical for any reason, the Owner may authorize the use of detailed cost records of such Work to establish and confirm the actual costs for documentation in a formal Change Order.

- 11.2.4 If the Construction Change Directive provides for an adjustment to the Work, the basis and method for determining the cost or credit to the Owner shall be in accordance with either subparagraph 12.1.3 or as described below.
- 11.2.5 When the Owner and CONTRACTOR agree on the adjustments to the Work and Contract Time, such agreement shall be recorded by preparation and execution of an appropriate Change Order in accordance with 12.1.

11.3 CONCEALED CONDITIONS

- 11.3.1 The CONTRACTOR is responsible for having visited the site and having ascertained pertinent local conditions such as location, accessibility, and general character of the site or building, the character and extent of existing Work within and adjacent to the site, and any other Work being performed thereon at the time of the submission of its proposal. Any failure to do so will not relieve it from responsibility for successfully performing the Work without additional expense to the Owner.
- 11.3.2 If, in the performance of the Agreement, subsurface, latent or concealed conditions at the site are found to be materially different from the information included in the Contract Documents, or if unknown conditions of an unusual nature are discovered differing materially from the conditions usually inherent in Work of the character shown and specified, the CONTRACTOR shall notify Owner in writing of such conditions before proceeding with the Work. If necessary, the Owner shall develop a solution and provide it to CONTRACTOR. If the solution prompts changes to the Work and/or Time, the Agreement shall be adjusted under Article 12 hereof.

11.4 CLAIMS FOR ADDITIONAL WORK

- 11.4.1 If the CONTRACTOR wishes to make a claim for an increase in the Work, he shall give the Owner notice thereof within ten (10) days after the occurrence of the event giving rise to such claim. This notice shall be given by the CONTRACTOR before proceeding with the Work, except in an emergency endangering life or property in which case the CONTRACTOR shall proceed in accordance with paragraph 10.3. No such claims shall be valid unless so made. Any change in the Work resulting from such claim shall be authorized by Change Order.
- 11.4.2 If the CONTRACTOR claims that additional cost is involved because of, but not limited to, (1) any written interpretation (2) any order by the Owner to stop the Work pursuant to paragraph 3.3 where the CONTRACTOR was not at fault, or (3) failure of payment by the Owner pursuant to paragraph 9.7, the CONTRACTOR shall make such claim as provided in subparagraph 12.4.1.

ARTICLE 12

UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK

- 12.1.1. If any portion of the Work should be covered contrary to the request of the Architect/Engineer or the Owner or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect/Engineer or the Owner, be uncovered for their observation and shall be replaced at the CONTRACTOR's expense.

12.2. CORRECTION OF WORK

- 12.2.1. The CONTRACTOR shall promptly correct all Work rejected by the Architect/Engineer or the Owner as defective or as failing to conform to the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed, or completed. The CONTRACTOR shall bear all costs of correcting such rejected Work, including any and all additional costs incurred by the Owner as a result thereof.
- 12.2.2. If any of the Work is found to be defective or not in accordance with the Contract Documents, the CONTRACTOR shall correct it promptly after receipt of a written notice from the Owner to do so unless the Owner has previously given the CONTRACTOR a written acceptance of such condition. This obligation shall survive termination of the Agreement. The Owner shall give such notice within ten (10) days after discovery of the condition.
- 12.2.3. The CONTRACTOR shall remove from the site all portions of the Work which are defective or non-conforming and which have not been corrected under these General Conditions and under the Agreement, unless removal is waived in writing by the Owner.
- 12.2.4. If the CONTRACTOR fails to correct defective or non-conforming Work as provided in these General Conditions and in the Agreement, the Owner may correct it in accordance with Paragraph 3.4.
- 12.2.5. If the CONTRACTOR does not proceed with the corrections of such defective non-conforming Work within a reasonable time fixed by written notice from the Architect/Engineer or the Owner, the Owner may remove it and may store the materials or equipment at the expense of the CONTRACTOR. If the CONTRACTOR does not pay the cost of such removal and storage within ten (10) days thereafter, the Owner may upon ten (10) additional days' written notice sell such work at auction or at private sale and shall account for the net proceeds therefor, after deducting all costs that should have been borne by the CONTRACTOR, including compensation for the Architect/Engineer's additional services made necessary thereby. If such proceeds of sale do not cover all costs, which the CONTRACTOR should have borne, the difference shall be charged to the CONTRACTOR and an appropriate Change Order shall be issued. If the payments then or thereafter due the CONTRACTOR are not sufficient to cover such amount, the CONTRACTOR shall pay the difference to the Owner.
- 12.2.6. The CONTRACTOR shall bear all costs of making good all Work of the Owner or separate contractors destroyed or damaged by such correction or removal.
- 12.2.7. Nothing contained in this Paragraph 13.2 shall be construed to establish a period of limitation with respect to any other obligation which the CONTRACTOR might have under the Contract Documents, including Paragraph 4.5 hereof. The establishment of the specific obligation of the CONTRACTOR to correct the Work has no relationship to his obligation to comply with the

Contract Documents, or to proceedings, which may be commenced to establish the CONTRACTOR's liability with respect to his obligations other than specifically to correct the Work.

12.3. ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

- 12.3.1. If the Owner prefers to accept defective or nonconforming Work, he may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Work where appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13

OTHER CONDITIONS OR SERVICES

- 27.1 Notwithstanding anything herein to the contrary, the CONTRACTOR shall perform all services and responsibilities required of the CONTRACTOR by these General Conditions for Enterprise Building Agreement using at least that standard of care, which a reasonably prudent contractor in Travis County, Texas would use under the same or similar circumstances. Nothing in these General Conditions for Enterprise Building Agreements shall be construed to relieve the CONTRACTOR of this duty.
- 27.2 Any oral representations or modifications concerning these General Conditions for Enterprise Building Agreements shall be of no force or effect, excepting a subsequent modification in writing, signed by the party to be charged. NO OFFICIAL, AGENT, EMPLOYEE, OR REPRESENTATIVE OF THE OWNER MAY MODIFY OR AMEND THESE GENERAL CONDITIONS FOR ENTERPRISE BUILDING AGREEMENTS, EXCEPT PURSUANT TO EXPRESS AUTHORITY GRANTED BY THE BOARD OF MANAGERS OF ENTERPRISE.

END OF GENERAL CONDITIONS

Attachment Q

Infection Control Permit

Infection Control Construction Permit –			Permit #:		
Location of Construction: SEHWC, Blackstock			Project Start Date:		
Contractor Performing Work:			Permit Expiration Date:		
Supervisor:			Telephone #:		
YES	NO	Construction Activity	YES	No	Infection Control Risk
		Type A: Inspection, non-invasive activity			Group 1: Least Risk
		Type B: Small scale, short duration, minimal dust generating activity			Group 2: Medium Risk
		Type C: Activity that generates moderate to high levels of dust, requires greater than one work shift for completion	X		Group 3: Medium/High Risk
X		Type D: Major demolition and construction activities requiring consecutive workshifts.			Group 4: Highest Risk
Class I:		1. Execute work by methods to minimize raising dust from construction operations.		2. Immediately replace any ceiling tile displaced for visual inspection.	
Class II:		1. Provide active means to prevent airborne dust from dispersing into atmosphere. 2. Water mist surfaces to control dust while cutting. 3. Seal unused doors with duct tape or masking tape. 4. Block off and seal air vents.		5. Wipe work surfaces with disinfectant. 6. Contain construction waste before transport in tightly covered containers. 7. Wet mop and/or vacuum with filtered vacuum before leaving work area. 8. Place dust mat at entrance and exit of work area.	
Date:					
Initials:					
Class III:		1. Obtain infection control permit from Owner's Project Manager or Engineering Department before construction begins. 2. Isolate HVAC System in area where work is being done to prevent contamination of duct system. 3. Complete all critical barriers or implement control cube method before construction begins. 4. Maintain negative air pressure within work site utilizing HEPA equipped air filtration units. 5. Do not remove barriers from work area until complete project is inspected by the Owner's Project Manager, Engineering Department and Infection Control department, and thoroughly cleaned by the Owner's Environmental Services Department.		6. Vacuum work area with HEPA filtered vacuum. 7. Wet mop area with disinfectant. Remove barrier material care fully to minimize spreading of dirt and debris associated with construction. 8. Remove barrier materials care fully to minimize spreading of dirt and debris associated with construction. 9. Contain construction waste before transport in tightly covered containers. 10. Cover transport receptacles or carts. 11. Remove isolation of HVAC system in areas where work is being performed.	
Date:					
Initials:					
Class IV:		16. Obtain Infection Control Permit from Owner's Project Manager or Engineering Department before construction begins. 17. Isolate HVAC system in area where work is being done to prevent contamination of duct system 18. Complete all critical barriers or implement control cube method before construction begins. 19. Maintain negative air pressure within work site utilizing HEPA equipped air filtration units.		23. Provide adhesive walk off mats at entrance to work area within the anteroom. Replace used mats with new mats in accordance with manufacturer's recommendations. 24. Do not remove barriers from work area until complete project is inspected by Owner's Engineering Project Manager, Engineering Department and Infection Control Department, and thoroughly cleaned by the Owner's Environmental Services Department.	
X					
Date: 9/5/2018					

Initials: DL, SS, GB	20. Seal holes, pipes, conduits and punctures appropriately.	25. Vacuum work area with HEPA filtered vacuums.
	21. Construct anteroom and require all personnel to pass through this room so they can be vacuumed using a HEPA vacuum cleaner before leaving work site or they can wear cloth or paper coveralls that are removed each time they leave the work site.	26. Wet mop area with disinfectant.
	22. All personnel entering the work site are required to wear shoe covers. Shoe covers must be changed each time the worker exits the work area.	27. Remove barrier materials carefully to minimize spreading of dirt and debris associated with construction.
		28. Contain construction waste before transporting in tightly covered containers.
29. Cover transport receptacles or carts.		
30. Remove isolation of HVAC system in areas where work is being performed.		
Permit sent to Infection Control Department for review: Copy <input type="checkbox"/> Fax <input type="checkbox"/> Date: _____ By: _____		
Final inspection by Infection Control required: Yes <input type="checkbox"/> No <input type="checkbox"/>		
Additional Requirements:		
12 hour uninterrupted air exchange required Date: _____ Initials _____		Exceptions/Additions to this permit are noted by attached memo
Permit requested by: _____ Date: _____		Permit authorized by: _____ Date: _____

Construction Activity Types

Type A:	Inspection and non-invasive activities. Includes, but is not limited to removal of ceiling tiles for visual inspection, painting (but not sanding), wallcovering, electrical, trim work, minor plumbing and activities which do not generate dust or require cutting of walls or access to ceilings other than for visual inspection.
Type B:	Small scale, short duration activities that create minimal dust. Includes, but is not limited to, installation of telephone and computer cabling, access to chase spaces, modification of millwork, maintenance patching and painting activities, cutting of walls or ceilings, where dust migration can be controlled.
Type C:	Any work that generates a moderate to high level of dust or requires demolition or removal of any fixed building components or assemblies. Includes, but is not limited to, sanding of walls for painting or wallcovering, removal of floorcoverings, ceiling tiles and casework, new wall construction, minor duct work or electrical work above ceilings, major cabling activities, and any activity which cannot be completed within a single workshift.
Type D:	Major demolition and construction projects. Includes, but is not limited to, activities which require consecutive work shifts, requires heavy demolition or removal of a complete cabling system and new construction.

Infection Control Risk Groups

Group 1	Group 2	Group 3	Group 4
<ul style="list-style-type: none"> All Office Areas Hallways and Lobbies not in patient care areas 	<ul style="list-style-type: none"> Medium Risk areas, such as Rehab areas and certain clinic or patient care areas where invasive procedures are not performed Sleep Lab Admitting and Discharge Areas 	<ul style="list-style-type: none"> Medium-High Risk areas, such as certain inpatient units, clinics, and ancillary departments, such as Radiology or other invasive procedure areas All Patient Care Areas Hallways and Lobbies in patient care areas All Clinics Emergency Center Pediatrics Radiology/M.R.I. Nuclear Medicine Women's Center 	<ul style="list-style-type: none"> High Risk areas, such as Burn Units, Operating rooms, Intensive Care Units, Oncology units Burn Unit All O.R.'s All I.C.U.'s Dialysis L & D / O. R. Pulmonary/G.I. Cath. Labs Hyperbaric/Wound Care Transplant N.I.C.U. oncology

		<ul style="list-style-type: none"> • PT/OT (Including Tank Rooms) • Kitchen & Cafeteria Areas Any procedural areas 	<ul style="list-style-type: none"> • Endoscopy • Sterile Supply Work Room • Pharmacy – Admixture Area • Laboratories
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Construction Activity/Infection Control Matrix

Infection Control Permit will be required when the Construction Activity and Risk Level indicate that Class III and Class IV control procedures are necessary.

Risk Level	Construction Activity			
	Type A	Type B	Type C	Type D
Group 1	I	II	II	III/IV
Group 2	I	II	III	IV
Group 3	I	III	III/IV	IV
Group 4	III	III/IV	III/IV	IV